

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3263

To reduce the growth of energy use in the United States, to limit the impact of growing energy use on the economy, environment, and national security of the United States through reductions in energy demand, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2005

Mr. WAMP (for himself, Mr. HALL, Mr. UDALL of Colorado, Mr. MARKEY, Mr. ALLEN, Mr. GONZALEZ, Mr. GORDON, Mr. CASTLE, Mr. EHLERS, Mr. BOEHLERT, and Mr. GILCREST) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Financial Services, 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

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## A BILL

To reduce the growth of energy use in the United States, to limit the impact of growing energy use on the economy, environment, and national security of the United States through reductions in energy demand, 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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Energy Efficiency Cornerstone Act of 2005”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of  
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definition of Secretary.

**TITLE I—RESIDENTIAL AND COMMERCIAL BUILDINGS**

Subtitle A—Appliance and Equipment Standards

- Sec. 101. Energy conservation standards for additional products.
- Sec. 102. Energy conservation standards for commercial equipment.
- Sec. 103. Energy labeling.
- Sec. 104. Equipment standards and analysis program.

Subtitle B—Building Energy Codes

- Sec. 111. State building energy efficiency codes incentives.
- Sec. 112. Energy code applicable to manufactured housing.
- Sec. 113. Energy efficiency standards.

Subtitle C—Energy Star

- Sec. 121. Energy Star Program.

Subtitle D—Federal Buildings

- Sec. 131. Federal building performance standards.

**TITLE II—TRANSPORTATION**

- Sec. 201. Alternative compliance with fleet rules.
- Sec. 202. Standards for Executive agency automobiles.

**TITLE III—INDUSTRY**

- Sec. 301. Voluntary commitments to reduce industrial energy intensity.

**TITLE IV—ELECTRICITY AND NATURAL GAS UTILITIES AND SUPPLIERS**

- Sec. 401. Energy efficient electric and natural gas utilities study.
- Sec. 402. Energy efficiency pilot program.
- Sec. 403. Energy efficiency resource programs.

**TITLE V—TAX INCENTIVES**

- Sec. 500. Amendment of 1986 Code.

Subtitle A—Buildings and Equipment Incentives

- Sec. 501. Credit for construction of new energy efficient homes.
- Sec. 502. Credit for energy efficiency improvements to existing homes.
- Sec. 503. Energy efficient commercial buildings deduction.
- Sec. 504. Credit for residential energy efficient property.
- Sec. 505. Credit for energy efficient appliances.
- Sec. 506. Incentive for certain energy efficient property used in business.
- Sec. 507. Credit for business installation of qualified fuel cells.
- Sec. 508. Credit for nonbusiness installation of qualified fuel cells [new addition not updated].
- Sec. 509. New nonrefundable personal credits allowed against regular and minimum taxes.
- Sec. 510. Certain business energy credits allowed against regular and minimum taxes.

Subtitle B—Transportation Incentives

- Sec. 511. Alternative motor vehicle credit.

Subtitle C—Industry Incentives

- Sec. 521. Energy credit for combined heat and power system property.

**1 SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1)(A) energy prices, especially the price of pe-  
 4 troleum and natural gas, have soared over the last  
 5 few years due to demand exceeding supply; and

6 (B) as both supply and demand are relatively  
 7 inflexible, even small reductions in United States de-  
 8 mand for natural gas and oil can result in signifi-  
 9 cant reductions in gas and oil prices;

10 (2) energy consumption in the United States is  
 11 projected by the Energy Information Administration  
 12 to increase by 35,000,000,000,000,000 Btus over  
 13 the next 2 decades, which is equivalent to twice the  
 14 energy consumed by all the cars currently on the  
 15 roads;

1           (3)(A) by 2025, the Energy Information Ad-  
2           ministration projects that 80 percent of oil used in  
3           the United States will be imported; and

4           (B) overall energy imports are expected to in-  
5           crease by 75 percent in the United States;

6           (4) energy efficiency improvements since the  
7           1970s have reduced current United States energy  
8           consumption by 40 percent, or  
9           40,000,000,000,000,000 Btus, making energy effi-  
10          ciency the greatest energy resource of the United  
11          States;

12          (5) the United States has not nearly tapped the  
13          energy efficiency resource of the United States in  
14          that energy consumption could be reduced by 20 to  
15          50 percent through cost-effective improvements in  
16          the homes, buildings, cars, industry, and utilities of  
17          the United States; and

18          (6) energy efficiency is generally the quickest,  
19          cheapest, and cleanest way—

20                 (A) to bring energy supply and demand in  
21                 balance; and

22                 (B) to reduce the economic, environmental,  
23                 and energy security impacts associated with en-  
24                 ergy use.

25          (b) PURPOSES.—The purposes of this Act are—

1 (1) to reduce the growth of energy use in the  
2 United States significantly, with cumulative energy  
3 savings through 2025 of 50,000,000,000,000,000 to  
4 80,000,000,000,000,000 Btus; and

5 (2) to limit the impacts of growing energy use  
6 on the economy, environment, and national security  
7 of the United States through reductions in energy  
8 demand.

9 **SEC. 3. DEFINITION OF SECRETARY.**

10 In this Act, the term “Secretary” means the Sec-  
11 retary of Energy.

12 **TITLE I—RESIDENTIAL AND**  
13 **COMMERCIAL BUILDINGS**  
14 **Subtitle A—Appliance and**  
15 **Equipment Standards**

16 **SEC. 101. ENERGY CONSERVATION STANDARDS FOR ADDI-**  
17 **TIONAL PRODUCTS.**

18 (a) DEFINITIONS.—Section 321 of the Energy Policy  
19 and Conservation Act (42 U.S.C. 6291) is amended—

20 (1) in paragraph (29)—

21 (A) in subparagraph (D)—

22 (i) in clause (i), by striking “C78.1–  
23 1978(R1984)” and inserting “C78.81–  
24 2003 (Data Sheet 7881–ANSI–1010–1)”;

1 (ii) in clause (ii), by striking “C78.1–  
2 1978(R1984)” and inserting “C78.81–  
3 2003 (Data Sheet 7881–ANSI–3007–1)”;  
4 and

5 (iii) in clause (iii), by striking  
6 “C78.1–1978(R1984)” and inserting  
7 “C78.81–2003 (Data Sheet 7881–ANSI–  
8 1019–1)”;

9 (B) by adding at the end the following:

10 “(M) The term ‘F34T12 lamp’ (also known as  
11 a ‘F40T12/ES lamp’) means a nominal 34 watt tu-  
12 bular fluorescent lamp that is 48 inches in length  
13 and 1½ inches in diameter, and conforms to ANSI  
14 standard C78.81–2003 (Data Sheet 7881–ANSI–  
15 1006–1).

16 “(N) The term ‘F96T12/ES lamp’ means a  
17 nominal 60 watt tubular fluorescent lamp that is 96  
18 inches in length and 1½ inches in diameter, and  
19 conforms to ANSI standard C78.81–2003 (Data  
20 Sheet 7881–ANSI–3006–1).

21 “(O) The term ‘F96T12HO/ES lamp’ means a  
22 nominal 95 watt tubular fluorescent lamp that is 96  
23 inches in length and 1½ inches in diameter, and  
24 conforms to ANSI standard C78.81–2003 (Data  
25 Sheet 7881–ANSI–1017–1).

1           “(P) The term ‘replacement ballast’ means a  
2 ballast that—

3           “(i) is designed for use to replace an exist-  
4 ing ballast in a previously installed luminaire;

5           “(ii) is marked ‘FOR REPLACEMENT  
6 USE ONLY’;

7           “(iii) is shipped by the manufacturer in  
8 packages containing not more than 10 ballasts;  
9 and

10           “(iv) has output leads that when fully ex-  
11 tended are a total length that is less than the  
12 length of the lamp with which the ballast is in-  
13 tended to be operated.”;

14           (2) in paragraph (30)(S)—

15           (A) by inserting “(i)” before “The term”;  
16 and

17           (B) by adding at the end the following:

18           “(ii) The term ‘medium base compact fluo-  
19 rescent lamp’ does not include—

20           “(I) any lamp that is—

21           “(aa) specifically designed to be  
22 used for special purpose applications;  
23 and

24           “(bb) unlikely to be used in gen-  
25 eral purpose applications, such as the

1 applications described in subpara-  
2 graph (D); or

3 “(II) any lamp not described in sub-  
4 paragraph (D) that is excluded by the Sec-  
5 retary, by rule, because the lamp is—

6 “(aa) designed for special appli-  
7 cations; and

8 “(bb) unlikely to be used in gen-  
9 eral purpose applications.”; and

10 (3) by adding at the end the following:

11 “(32) The term ‘battery charger’ means a de-  
12 vice that charges batteries for consumer products,  
13 including battery chargers embedded in other con-  
14 sumer products.

15 “(33)(A) The term ‘commercial prerinse spray  
16 valve’ means a handheld device designed and mar-  
17 keted for use with commercial dishwashing and ware  
18 washing equipment that sprays water on dishes, flat-  
19 ware, and other food service items for the purpose  
20 of removing food residue before cleaning the items.

21 “(B) The Secretary may modify the definition  
22 of ‘commercial prerinse spray valve’ by rule—

23 “(i) to include products—

1                   “(I) that are extensively used in  
2                   conjunction with commercial dish-  
3                   washing and ware washing equipment;

4                   “(II) the application of standards  
5                   to which would result in significant  
6                   energy savings; and

7                   “(III) the application of stand-  
8                   ards to which would meet the criteria  
9                   specified in section 325(o)(4); and

10                  “(ii) to exclude products—

11                   “(I) that are used for special  
12                   food service applications;

13                   “(II) that are unlikely to be  
14                   widely used in conjunction with com-  
15                   mercial dishwashing and ware wash-  
16                   ing equipment; and

17                   “(III) the application of stand-  
18                   ards to which would not result in sig-  
19                   nificant energy savings.

20                  “(34) The term ‘dehumidifier’ means a self-con-  
21                  tained, electrically operated, and mechanically en-  
22                  cased assembly consisting of—

23                   “(A) a refrigerated surface (evaporator)  
24                   that condenses moisture from the atmosphere;

1           “(B) a refrigerating system, including an  
2 electric motor;

3           “(C) an air-circulating fan; and

4           “(D) means for collecting or disposing of  
5 the condensate.

6           “(35)(A) The term ‘distribution transformer’  
7 means a transformer that—

8           “(i) has an input voltage of 34.5 kilovolts  
9 or less;

10           “(ii) has an output voltage of 600 volts or  
11 less; and

12           “(iii) is rated for operation at a frequency  
13 of 60 Hertz.

14           “(B) The term ‘distribution transformer’ does  
15 not include—

16           “(i) a transformer with multiple volt-  
17 age taps, the highest of which equals at  
18 least 20 percent more than the lowest;

19           “(ii) a transformer that is designed to  
20 be used in a special purpose application  
21 and is unlikely to be used in general pur-  
22 pose applications, such as a drive trans-  
23 former, rectifier transformer, auto-trans-  
24 former, Uninterruptible Power System  
25 transformer, impedance transformer, regu-

1           lating transformer, sealed and nonven-  
2           tilating transformer, machine tool trans-  
3           former, welding transformer, grounding  
4           transformer, or testing transformer; or

5           “(iii) any transformer not listed in  
6           clause (ii) that is excluded by the Sec-  
7           retary by rule because—

8                   “(I) the transformer is designed  
9                   for a special application;

10                   “(II) the transformer is unlikely  
11                   to be used in general purpose applica-  
12                   tions; and

13                   “(III) the application of stand-  
14                   ards to the transformer would not re-  
15                   sult in significant energy savings.

16           “(36) The term ‘external power supply’ means  
17           an external power supply circuit that is used to con-  
18           vert household electric current into DC current or  
19           lower-voltage AC current to operate a consumer  
20           product.

21           “(37) The term ‘illuminated exit sign’ means a  
22           sign that—

23                   “(A) is designed to be permanently fixed in  
24                   place to identify an exit; and

1           “(B) consists of an electrically powered in-  
2           tegral light source that—

3                   “(i) illuminates the legend ‘EXIT’  
4                   and any directional indicators; and

5                   “(ii) provides contrast between the  
6                   legend, any directional indicators, and the  
7                   background.

8           “(38) The term ‘low-voltage dry-type distribu-  
9           tion transformer’ means a distribution transformer  
10          that—

11                   “(A) has an input voltage of 600 volts or  
12                   less;

13                   “(B) is air-cooled; and

14                   “(C) does not use oil as a coolant.

15          “(39) The term ‘pedestrian module’ means a  
16          light signal used to convey movement information to  
17          pedestrians.

18          “(40) The term ‘refrigerated bottled or canned  
19          beverage vending machine’ means a commercial re-  
20          frigerator that cools bottled or canned beverages and  
21          dispenses the bottled or canned beverages on pay-  
22          ment.

23          “(41) The term ‘standby mode’ means the low-  
24          est power consumption mode, as established on an  
25          individual product basis by the Secretary, that—

1           “(A) cannot be switched off or influenced  
2           by the user; and

3           “(B) may persist for an indefinite time  
4           when an appliance is—

5                 “(i) connected to the main electricity  
6                 supply; and

7                 “(ii) used in accordance with the in-  
8                 structions of the manufacturer.

9           “(42) The term ‘torchiere’ means a portable  
10          electric lamp with a reflector bowl that directs light  
11          upward to give indirect illumination.

12          “(43) The term ‘traffic signal module’ means a  
13          standard 8-inch (200mm) or 12-inch (300mm) traf-  
14          fic signal indication that—

15                 “(A) consists of a light source, a lens, and  
16                 all other parts necessary for operation; and

17                 “(B) communicates movement messages to  
18                 drivers through red, amber, and green colors.

19          “(44) The term ‘transformer’ means a device  
20          consisting of 2 or more coils of insulated wire that  
21          transfers alternating current by electromagnetic in-  
22          duction from 1 coil to another to change the original  
23          voltage or current value.

1           “(45)(A) The term ‘unit heater’ means a self-  
2 contained fan-type heater designed to be installed  
3 within the heated space.

4           “(B) The term ‘unit heater’ does not include a  
5 warm air furnace.

6           “(46)(A) The term ‘high intensity discharge  
7 lamp’ means an electric-discharge lamp in which—

8               “(i) the light-producing arc is stabilized by  
9 bulb wall temperature; and

10               “(ii) the arc tube has a bulb wall loading  
11 in excess of 3 Watts/cm<sup>2</sup>.

12           “(B) The term ‘high intensity discharge lamp’  
13 includes mercury vapor, metal halide, and high-pres-  
14 sure sodium lamps described in subparagraph (A).

15           “(47)(A) The term ‘mercury vapor lamp’ means  
16 a high intensity discharge lamp in which the major  
17 portion of the light is produced by radiation from  
18 mercury operating at a partial pressure in excess of  
19 100,000 Pa (approximately 1 atm).

20           “(B) The term ‘mercury vapor lamp’ includes  
21 clear, phosphor-coated, and self-ballasted lamps de-  
22 scribed in subparagraph (A).

23           “(48) The term ‘mercury vapor lamp ballast’  
24 means a device that is designed and marketed to

1 start and operate mercury vapor lamps by providing  
2 the necessary voltage and current.”.

3 (b) TEST PROCEDURES.—Section 323 of the Energy  
4 Policy and Conservation Act (42 U.S.C. 6293) is amend-  
5 ed—

6 (1) in subsection (b), by adding at the end the  
7 following:

8 “(9) Test procedures for illuminated exit signs shall  
9 be based on the test method used under version 2.0 of  
10 the Energy Star program of the Environmental Protection  
11 Agency for illuminated exit signs.

12 “(10)(A) Test procedures for distribution trans-  
13 formers and low voltage dry-type distribution transformers  
14 shall be based on the ‘Standard Test Method for Meas-  
15 uring the Energy Consumption of Distribution Trans-  
16 formers’ prescribed by the National Electrical Manufac-  
17 turers Association (NEMA TP 2–1998).

18 “(B) The Secretary may review and revise the test  
19 procedures established under subparagraph (A).

20 “(C) For purposes of section 346(a), the test proce-  
21 dures established under subparagraph (A) shall be consid-  
22 ered to be the testing requirements prescribed by the Sec-  
23 retary under section 346(a)(1) for distribution trans-  
24 formers for which the Secretary makes a determination  
25 that energy conservation standards would—

1           “(i) be technologically feasible and economically  
2       justified; and

3           “(ii) result in significant energy savings.

4       “(11) Test procedures for traffic signal modules and  
5       pedestrian modules shall be based on the test method used  
6       under the Energy Star program of the Environmental  
7       Protection Agency for traffic signal modules, as in effect  
8       on the date of enactment of this paragraph.

9       “(12)(A) Test procedures for medium base compact  
10       fluorescent lamps shall be based on the test methods for  
11       compact fluorescent lamps used under the August 9, 2001,  
12       version of the Energy Star program of the Environmental  
13       Protection Agency and the Department of Energy.

14       “(B) Except as provided in subparagraph (C), me-  
15       dium base compact fluorescent lamps shall meet all test  
16       requirements for regulated parameters of section 325(cc).

17       “(C) Notwithstanding subparagraph (B), if manufac-  
18       turers document engineering predictions and analysis that  
19       support expected attainment of lumen maintenance at 40  
20       percent rated life and lamp lifetime, medium base compact  
21       fluorescent lamps may be marketed before completion of  
22       the testing of lamp life and lumen maintenance at 40 per-  
23       cent of rated life.

24       “(13) Test procedures for dehumidifiers shall be  
25       based on the test criteria used under the Energy Star Pro-

1 gram Requirements for Dehumidifiers developed by the  
2 Environmental Protection Agency, as in effect on the date  
3 of enactment of this paragraph unless revised by the Sec-  
4 retary pursuant to this section.

5 “(14) The test procedure for measuring flow rate for  
6 commercial prerinse spray valves shall be based on Amer-  
7 ican Society for Testing and Materials Standard F2324,  
8 entitled ‘Standard Test Method for Pre-Rinse Spray  
9 Valves.’

10 “(15) The test procedure for refrigerated bottled or  
11 canned beverage vending machines shall be based on  
12 American National Standards Institute/American Society  
13 of Heating, Refrigerating and Air-Conditioning Engineers  
14 Standard 32.1–2004, entitled ‘Methods of Testing for  
15 Rating Vending Machines for Bottled, Canned or Other  
16 Sealed Beverages.’”; and

17 (2) by adding at the end the following:

18 “(f) ADDITIONAL CONSUMER AND COMMERCIAL  
19 PRODUCTS.—(1) Not later than 2 years after the date of  
20 enactment of this subsection, the Secretary shall prescribe  
21 testing requirements for—

22 “(A) suspended ceiling fans; and

23 “(B) refrigerated bottled or canned beverage  
24 vending machines.

1       “(2) To the maximum extent practicable, the testing  
2 requirements prescribed under paragraph (1) shall be  
3 based on existing test procedures used in industry.”.

4       (c) STANDARD SETTING AUTHORITY.—Section 325  
5 of the Energy Policy and Conservation Act (42 U.S.C.  
6 6295) is amended—

7           (1) in subsection (f)(3), by adding at the end  
8 the following:

9       “(D) Notwithstanding any other provision of this Act,  
10 if the requirements of subsection (o) are met, the Sec-  
11 retary may consider and prescribe energy conservation  
12 standards or energy use standards for electricity used for  
13 purposes of circulating air through duct work.”;

14           (2) in subsection (g)—

15           (A) in paragraph (6)(B), by inserting “and  
16 labeled” after “designed”; and

17           (B) by adding at the end the following:

18       “(8)(A) Each fluorescent lamp ballast (other than re-  
19 placement ballasts or ballasts described in subparagraph  
20 (C))—

21           “(i)(I) manufactured on or after July 1, 2009;

22           “(II) sold by the manufacturer on or after Oc-  
23 tober 1, 2009; or

24           “(III) incorporated into a luminaire by a lumi-  
25 naire manufacturer on or after July 1, 2010; and

1 “(ii) designed—  
 2 “(I) to operate at nominal input voltages  
 3 of 120 or 277 volts;  
 4 “(II) to operate with an input current fre-  
 5 quency of 60 Hertz; and  
 6 “(III) for use in connection with F34T12  
 7 lamps, F96T12/ES lamps, or F96T12HO/ES  
 8 lamps;  
 9 shall have a power factor of 0.90 or greater and  
 10 shall have a ballast efficacy factor of not less than  
 11 the following:  
 12 “(B) The standards described in subparagraph (A)  
 13 shall apply to all ballasts covered by subparagraph (A)(ii)  
 14 that are manufactured on or after July 1, 2010, or sold  
 15 by the manufacturer on or after October 1, 2010.

“Application for operation for operation of ballast input voltage	Total nominal lampwatts	Ballast efficiency factor
One F34T12 lamp .....	120/277 .....	34
Two F34T12 lamps .....	120/277 .....	68
Two F96 T12/ES lamps .....	120/277 .....	120
Two F96 T12HO/ES lamps .....	120/277 .....	190

16 “(C) The standards described in subparagraphs (A)  
 17 and (B) do not apply to—  
 18 “(i) a ballast that is designed for dimming to  
 19 50 percent or less of the maximum output of the  
 20 ballast;

1           “(ii) a ballast that is designed for use with 2  
2 F96T12HO lamps at ambient temperatures of 20°F  
3 or less and for use in an outdoor sign; or

4           “(iii) a ballast that has a power factor of less  
5 than 0.90 and is designed and labeled for use only  
6 in residential applications.”;

7           (3) in subsection (o), by adding at the end the  
8 following:

9           “(5)(A) Notwithstanding any other provision in  
10 this section, the Secretary may set 2 standards for  
11 space heating and air conditioning equipment by di-  
12 viding the United States into 2 climate zones to  
13 achieve the maximum level of energy savings that  
14 are technically feasible and economically justified.

15           “(B) The climate zone boundaries described in  
16 subparagraph (A)—

17                 “(i) shall follow State borders; and

18                 “(ii) shall include only contiguous States.

19           “(C) In determining whether to set 2 standards  
20 as described in subparagraph (A), the Secretary  
21 shall consider all factors described in paragraphs (1)  
22 through (4).

23           “(D) If the Secretary sets 2 standards as de-  
24 scribed in subparagraph (A), it shall be illegal to

1 transport noncomplying products into a State for re-  
2 tail sale or installation in that State.”.

3 (4) by adding at the end the following:

4 “(u) BATTERY CHARGER AND EXTERNAL POWER  
5 SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not  
6 later than 18 months after the date of enactment of this  
7 subsection, the Secretary shall, after providing notice and  
8 an opportunity for comment, prescribe, by rule, definitions  
9 and test procedures for the power use of battery chargers  
10 and external power supplies.

11 “(B) In establishing the test procedures under sub-  
12 paragraph (A), the Secretary shall—

13 “(i) consider existing definitions and test proce-  
14 dures used for measuring energy consumption in  
15 standby mode and other modes; and

16 “(ii) assess the current and projected future  
17 market for battery chargers and external power sup-  
18 plies.

19 “(C) The assessment under subparagraph (B)(ii)  
20 shall include—

21 “(i) estimates of the significance of potential  
22 energy savings from technical improvements to bat-  
23 tery chargers and external power supplies; and

24 “(ii) suggested product classes for energy con-  
25 servation standards.

1       “(D) Not later than 18 months after the date of en-  
2 actment of this subsection, the Secretary shall hold a  
3 scoping workshop to discuss and receive comments on  
4 plans for developing energy conservation standards for en-  
5 ergy use for battery chargers and external power supplies.

6       “(E)(i) Not later than 3 years after the date of enact-  
7 ment of this subsection, the Secretary shall issue a final  
8 rule that determines whether energy conservation stand-  
9 ards shall be issued for battery chargers and external  
10 power supplies or classes of battery chargers and external  
11 power supplies.

12       “(ii) For each product class, any energy conservation  
13 standards issued under clause (i) shall be set at the lowest  
14 level of energy use that—

15               “(I) meets the criteria and procedures of sub-  
16 sections (o), (p), (q), (r), (s), and (t); and

17               “(II) would result in significant overall annual  
18 energy savings, considering standby mode and other  
19 operating modes.

20       “(2) In determining under section 323 whether test  
21 procedures and energy conservation standards under this  
22 section should be revised with respect to covered products  
23 that are major sources of standby mode energy consump-  
24 tion, the Secretary shall consider whether to incorporate  
25 standby mode into the test procedures and energy con-

1 servation standards, taking into account standby mode  
2 power consumption compared to overall product energy  
3 consumption.

4 “(3) The Secretary shall not propose an energy con-  
5 servation standard under this section, unless the Secretary  
6 has issued applicable test procedures for each product  
7 under section 323.

8 “(4) Any energy conservation standard issued under  
9 this subsection shall be applicable to products manufac-  
10 tured or imported beginning on the date that is 3 years  
11 after the date of issuance.

12 “(5) The Secretary and the Administrator shall col-  
13 laborate and develop programs (including programs under  
14 section 324A and other voluntary industry agreements or  
15 codes of conduct) that are designed to reduce standby  
16 mode energy use.

17 “(v) SUSPENDED CEILING FANS AND REFRIG-  
18 ERATED BEVERAGE VENDING MACHINES.—(1) Not later  
19 than 4 years after the date of enactment of this sub-  
20 section, the Secretary shall prescribe, by rule, energy con-  
21 servation standards for—

22 “(A) suspended ceiling fans; and

23 “(B) refrigerated bottled or canned beverage  
24 vending machines.

1       “(2) In establishing energy conservation standards  
2 under this subsection, the Secretary shall use the criteria  
3 and procedures prescribed under subsections (o) and (p).

4       “(3) Any energy conservation standard prescribed  
5 under this subsection shall apply to products manufac-  
6 tured 3 years after the date of publication of a final rule  
7 establishing the energy conservation standard.

8       “(w) ILLUMINATED EXIT SIGNS.—An illuminated  
9 exit sign manufactured on or after January 1, 2006, shall  
10 meet the version 2.0 Energy Star Program performance  
11 requirements for illuminated exit signs prescribed by the  
12 Environmental Protection Agency.

13       “(x) TORCHIERES.—A torchiere manufactured on or  
14 after January 1, 2006—

15               “(1) shall consume not more than 190 watts of  
16 power; and

17               “(2) shall not be capable of operating with  
18 lamps that total more than 190 watts.

19       “(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION  
20 TRANSFORMERS.—The efficiency of a low voltage dry-type  
21 distribution transformer manufactured on or after Janu-  
22 ary 1, 2007, shall be the Class I Efficiency Levels for dis-  
23 tribution transformers specified in table 4–2 of the ‘Guide  
24 for Determining Energy Efficiency for Distribution Trans-

1 formers' published by the National Electrical Manufactur-  
2 ers Association (NEMA TP-1-2002).

3       “(z) TRAFFIC SIGNAL MODULES AND PEDESTRIAN  
4 MODULES.—Any traffic signal module or pedestrian mod-  
5 ule manufactured on or after January 1, 2006, shall—

6               “(1) meet the performance requirements used  
7       under the Energy Star program of the Environ-  
8       mental Protection Agency for traffic signals, as in  
9       effect on the date of enactment of this subsection;  
10      and

11              “(2) be installed with compatible, electrically  
12      connected signal control interface devices and con-  
13      flict monitoring systems.

14       “(aa) UNIT HEATERS.—A unit heater manufactured  
15      on or after the date that is 3 years after the date of enact-  
16      ment of this subsection shall—

17              “(1) be equipped with an intermittent ignition  
18      device; and

19              “(2) have power venting or an automatic flue  
20      damper.

21       “(bb) MEDIUM BASE COMPACT FLUORESCENT  
22 LAMPS.—(1) A bare lamp and covered lamp (no reflector)  
23 medium base compact fluorescent lamp manufactured on  
24 or after January 1, 2006, shall meet the following require-  
25 ments prescribed by the August 9, 2001, version of the

1 Energy Star Program Requirements for Compact Fluores-  
2 cent Lamps, Energy Star Eligibility Criteria, Energy-Effi-  
3 ciency Specification issued by the Environmental Protec-  
4 tion Agency and Department of Energy:

5           “(A) Minimum initial efficacy.

6           “(B) Lumen maintenance at 1000 hours.

7           “(C) Lumen maintenance at 40 percent of  
8 rated life.

9           “(D) Rapid cycle stress test.

10          “(E) Lamp life.

11          “(2) The Secretary may, by rule, establish require-  
12 ments for color quality (CRI), power factor, operating fre-  
13 quency, and maximum allowable start time based on the  
14 requirements prescribed by the August 9, 2001, version  
15 of the Energy Star Program Requirements for Compact  
16 Fluorescent Lamps.

17          “(3) The Secretary may, by rule—

18           “(A) revise the requirements established under  
19 paragraph (2); or

20           “(B) establish other requirements, after consid-  
21 ering energy savings, cost effectiveness, and con-  
22 sumer satisfaction.

23          “(cc) DEHUMIDIFIERS.—(1) Dehumidifiers manufac-  
24 tured on or after October 1, 2007, shall have an Energy  
25 Factor that meets or exceeds the following values:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh):</b>
25.00 or less .....	1.00
25.01 – 35.00 .....	1.20
35.01 – 54.00 .....	1.30
54.01 – 74.99 .....	1.50
75.00 or more .....	2.25.

1       “(2)(A) Not later than October 1, 2009, the Sec-  
 2 retary shall publish a final rule in accordance with sub-  
 3 sections (o) and (p), to determine whether the energy con-  
 4 servation standards established under paragraph (1)  
 5 should be amended.

6       “(B) The final rule published under subparagraph  
 7 (A) shall—

8               “(i) contain any amendment by the Secretary;  
 9       and

10              “(ii) provide that the amendment applies to  
 11 products manufactured on or after October 1, 2012.

12       “(C) If the Secretary does not publish an amendment  
 13 that takes effect by October 1, 2012, dehumidifiers manu-  
 14 factured on or after October 1, 2012, shall have an Energy  
 15 Factor that meets or exceeds the following values:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh):</b>
25.00 or less .....	1.20
25.01 – 35.00 .....	1.30
35.01 – 45.00 .....	1.40
45.01 – 54.00 .....	1.50
54.01 – 74.99 .....	1.60
75.00 or more .....	2.5.

16       “(dd) COMMERCIAL PRERINSE SPRAY VALVES.—  
 17 Commercial prerinse spray valves manufactured on or

1 after January 1, 2006, shall have a flow rate of not more  
2 than 1.6 gallons per minute.

3 “(ee) MERCURY VAPOR LAMP BALLASTS.—Mercury  
4 vapor lamp ballasts shall not be manufactured or imported  
5 after January 1, 2008.

6 “(ff) APPLICATION DATE.—Section 327 applies—

7 “(1) to products for which energy conservation  
8 standards are to be established under subsection (l),  
9 (u), or (v) beginning on the date on which a final  
10 rule is issued by the Secretary, except that any State  
11 or local standard prescribed or enacted for the prod-  
12 uct before the date on which the final rule is issued  
13 shall not be preempted until the energy conservation  
14 standard established under subsection (l),(u), or (v)  
15 for the product takes effect; and

16 “(2) to products for which energy conservation  
17 standards are established under subsections (w)  
18 through (ee) on the date of enactment of those sub-  
19 sections, except that any State or local standard pre-  
20 scribed or enacted before the date of enactment of  
21 those subsections shall not be preempted until the  
22 energy conservation standards established under  
23 subsections (w) through (ee) take effect.”.

1 (d) GENERAL RULE OF PREEMPTION.—Section  
2 327(c) of the Energy Policy and Conservation Act (42  
3 U.S.C. 6297(c)) is amended—

4 (1) in paragraph (5), by striking “or” at the  
5 end;

6 (2) in paragraph (6), by striking the period at  
7 the end and inserting “; or”; and

8 (3) by adding at the end the following:

9 “(7)(A) is a regulation concerning standards for  
10 commercial prerinse spray valves adopted by the  
11 California Energy Commission before January 1,  
12 2005; or

13 “(B) is an amendment to a regulation described  
14 in subparagraph (A) that was developed to align  
15 California regulations with changes in American So-  
16 ciety for Testing and Materials Standard F2324;

17 “(8)(A) is a regulation concerning standards for  
18 pedestrian modules adopted by the California En-  
19 ergy Commission before January 1, 2005; or

20 “(B) is an amendment to a regulation described  
21 in subparagraph (A) that was developed to align  
22 California regulations to changes in the Institute for  
23 Transportation Engineers standards, entitled ‘Per-  
24 formance Specification: Pedestrian Traffic Control  
25 Signal Indications’.”.

1 **SEC. 102. ENERGY CONSERVATION STANDARDS FOR COM-**  
2 **MERCIAL EQUIPMENT.**

3 (a) DEFINITIONS.—Section 340 of the Energy Policy  
4 and Conservation Act (42 U.S.C. 6311) is amended—

5 (1) in paragraph (1)—

6 (A) by redesignating subparagraphs (D)  
7 through (G) as subparagraphs (H) through  
8 (K), respectively; and

9 (B) by inserting after subparagraph (C)  
10 the following:

11 “(D) Very large commercial package air  
12 conditioning and heating equipment.

13 “(E) Commercial refrigerators, freezers,  
14 and refrigerator-freezers.

15 “(F) Automatic commercial ice makers.

16 “(G) Commercial clothes washers.”;

17 (2) in paragraph (2)(B), by striking “small and  
18 large commercial package air conditioning and heat-  
19 ing equipment” and inserting “commercial package  
20 air conditioning and heating equipment, commercial  
21 refrigerators, freezers, and refrigerator-freezers,  
22 automatic commercial ice makers, commercial  
23 clothes washers”;

24 (3) by striking paragraphs (8) and (9) and in-  
25 serting the following:

1           “(8)(A) The term ‘commercial package air con-  
2           ditioning and heating equipment’ means air-cooled,  
3           water-cooled, evaporatively-cooled, or water source  
4           (not including ground water source) electrically oper-  
5           ated, unitary central air conditioners and central air  
6           conditioning heat pumps for commercial application.

7           “(B) The term ‘small commercial package air  
8           conditioning and heating equipment’ means commer-  
9           cial package air conditioning and heating equipment  
10          that is rated below 135,000 Btu per hour (cooling  
11          capacity).

12          “(C) The term ‘large commercial package air  
13          conditioning and heating equipment’ means commer-  
14          cial package air conditioning and heating equipment  
15          that is rated—

16                 “(i) at or above 135,000 Btu per hour;  
17                 and

18                 “(ii) below 240,000 Btu per hour (cooling  
19                 capacity).

20          “(D) The term ‘very large commercial package  
21          air conditioning and heating equipment’ means com-  
22          mercial package air conditioning and heating equip-  
23          ment that is rated—

24                 “(i) at or above 240,000 Btu per hour;  
25                 and

1                   “(ii) below 760,000 Btu per hour (cooling  
2                   capacity).

3                   “(9)(A) The term ‘commercial refrigerator,  
4                   freezer, and refrigerator-freezer’ means refrigeration  
5                   equipment that—

6                   “(i) is not a consumer product (as defined  
7                   in section 321);

8                   “(ii) is not designed and marketed exclu-  
9                   sively for medical, scientific, or research pur-  
10                  poses;

11                  “(iii) operates at a chilled, frozen, com-  
12                  bination chilled and frozen, or variable tempera-  
13                  ture;

14                  “(iv) displays or stores merchandise and  
15                  other perishable materials horizontally,  
16                  semivertically, or vertically;

17                  “(v) has transparent or solid doors, sliding  
18                  or hinged doors, a combination of hinged, slid-  
19                  ing, transparent, or solid doors, or no doors;

20                  “(vi) is designed for pull-down temperature  
21                  applications or holding temperature applica-  
22                  tions; and

23                  “(vii) is connected to a self-contained con-  
24                  densing unit or to a remote condensing unit.

1           “(B) The term ‘holding temperature applica-  
2           tion’ means a use of commercial refrigeration equip-  
3           ment other than a pull-down temperature applica-  
4           tion, except a blast chiller or freezer.

5           “(C) The term ‘integrated average temperature’  
6           means the average temperature of all test package  
7           measurements taken during the test.

8           “(D) The term ‘pull-down temperature applica-  
9           tion’ means a commercial refrigerator with doors  
10          that, when fully loaded with 12 ounce beverage cans  
11          at 90 degrees F, can cool those beverages to an av-  
12          erage stable temperature of 38 degrees F in 12  
13          hours or less.

14          “(E) The term ‘remote condensing unit’ means  
15          a factory-made assembly of refrigerating components  
16          designed to compress and liquefy a specific refriger-  
17          erant that is remotely located from the refrigerated  
18          equipment and consists of 1 or more refrigerant  
19          compressors, refrigerant condensers, condenser fans  
20          and motors, and factory supplied accessories.

21          “(F) The term ‘self-contained condensing unit’  
22          means a factory-made assembly of refrigerating com-  
23          ponents designed to compress and liquefy a specific  
24          refrigerant that is an integral part of the refriger-  
25          erated equipment and consists of 1 or more refriger-

1 erant compressors, refrigerant condensers, condenser  
2 fans and motors, and factory supplied accessories.”;  
3 and

4 (4) by adding at the end the following:

5 “(19) The term ‘automatic commercial ice  
6 maker’ means a factory-made assembly (not nec-  
7 essarily shipped in 1 package) that—

8 “(A) consists of a condensing unit and ice-  
9 making section operating as an integrated unit,  
10 with means for making and harvesting ice; and

11 “(B) may include means for storing ice,  
12 dispensing ice, or storing and dispensing ice.

13 “(20) The term ‘commercial clothes washer’  
14 means a soft-mount front-loading or soft-mount top-  
15 loading clothes washer that—

16 “(A) has a clothes container compartment  
17 that—

18 “(i) for horizontal-axis clothes wash-  
19 ers, is not more than 3.5 cubic feet ; and

20 “(ii) for vertical-axis clothes washers,  
21 is not more than 4.0 cubic feet; and

22 “(B) is designed for use in—

23 “(i) applications in which the occu-  
24 pants of more than 1 household will be  
25 using the clothes washer, such as multi-

1 family housing common areas and coin  
2 laundries; or

3 “(ii) other commercial applications.

4 “(21) The term ‘harvest rate’ means the  
5 amount of ice (at 32 degrees F) in pounds produced  
6 per 24 hours.”.

7 (b) STANDARDS FOR COMMERCIAL PACKAGE AIR  
8 CONDITIONING AND HEATING EQUIPMENT.—Section  
9 342(a) of the Energy Policy and Conservation Act (42  
10 U.S.C. 6313(a)) is amended—

11 (1) in the subsection heading, by striking  
12 “SMALL AND LARGE” and inserting “SMALL,  
13 LARGE, AND VERY LARGE”;

14 (2) in paragraph (1), by inserting “but before  
15 January 1, 2010,” after “January 1, 1994,”;

16 (3) in paragraph (2), by inserting “but before  
17 January 1, 2010,” after “January 1, 1995,”; and

18 (4) in paragraph (6)—

19 (A) in subparagraph (A)—

20 (i) by inserting “(i)” after “(A)”;

21 (ii) by striking “the date of enactment  
22 of the Energy Policy Act of 1992” and in-  
23 serting “January 1, 2010”;

24 (iii) by inserting after “large commer-  
25 cial package air conditioning and heating

1 equipment,” the following: “and very large  
2 commercial package air conditioning and  
3 heating equipment, or if ASHRAE/IES  
4 Standard 90.1, as in effect on October 24,  
5 1992, is amended with respect to any”;  
6 and

7 (iv) by adding at the end the fol-  
8 lowing:

9 “(ii) If ASHRAE/IES Standard 90.1 is not amended  
10 with respect to small commercial package air conditioning  
11 and heating equipment, large commercial package air con-  
12 ditioning and heating equipment, and very large commer-  
13 cial package air conditioning and heating equipment dur-  
14 ing the 5-year period beginning on the effective date of  
15 a standard, the Secretary may initiate a rulemaking to  
16 determine whether a more stringent standard—

17 “(I) would result in significant additional con-  
18 servation of energy; and

19 “(II) is technologically feasible and economi-  
20 cally justified.”; and

21 (B) in subparagraph (C)(ii), by inserting  
22 “and very large commercial package air condi-  
23 tioning and heating equipment” after “large  
24 commercial package air conditioning and heat-  
25 ing equipment”; and

1 (5) by adding at the end the following:

2 “(7) Small commercial package air conditioning and  
3 heating equipment manufactured on or after January 1,  
4 2010, shall meet the following standards:

5 “(A) The minimum energy efficiency ratio of  
6 air-cooled central air conditioners at or above 65,000  
7 Btu per hour (cooling capacity) and less than  
8 135,000 Btu per hour (cooling capacity) shall be—

9 “(i) 11.2 for equipment with no heating or  
10 electric resistance heating; and

11 “(ii) 11.0 for equipment with all other  
12 heating system types that are integrated into  
13 the equipment (at a standard rating of 95 de-  
14 grees F db).

15 “(B) The minimum energy efficiency ratio of  
16 air-cooled central air conditioner heat pumps at or  
17 above 65,000 Btu per hour (cooling capacity) and  
18 less than 135,000 Btu per hour (cooling capacity)  
19 shall be—

20 “(i) 11.0 for equipment with no heating or  
21 electric resistance heating; and

22 “(ii) 10.8 for equipment with all other  
23 heating system types that are integrated into  
24 the equipment (at a standard rating of 95 de-  
25 grees F db).

1           “(C) The minimum coefficient of performance  
2           in the heating mode of air-cooled central air condi-  
3           tioning heat pumps at or above 65,000 Btu per hour  
4           (cooling capacity) and less than 135,000 Btu per  
5           hour (cooling capacity) shall be 3.3 (at a high tem-  
6           perature rating of 47 degrees F db).

7           “(8) Large commercial package air conditioning and  
8           heating equipment manufactured on or after January 1,  
9           2010, shall meet the following standards:

10           “(A) The minimum energy efficiency ratio of  
11           air-cooled central air conditioners at or above  
12           135,000 Btu per hour (cooling capacity) and less  
13           than 240,000 Btu per hour (cooling capacity) shall  
14           be—

15                   “(i) 11.0 for equipment with no heating or  
16                   electric resistance heating; and

17                   “(ii) 10.8 for equipment with all other  
18                   heating system types that are integrated into  
19                   the equipment (at a standard rating of 95 de-  
20                   grees F db).

21           “(B) The minimum energy efficiency ratio of  
22           air-cooled central air conditioner heat pumps at or  
23           above 135,000 Btu per hour (cooling capacity) and  
24           less than 240,000 Btu per hour (cooling capacity)  
25           shall be—

1           “(i) 10.6 for equipment with no heating or  
2           electric resistance heating; and

3           “(ii) 10.4 for equipment with all other  
4           heating system types that are integrated into  
5           the equipment (at a standard rating of 95 de-  
6           grees F db).

7           “(C) The minimum coefficient of performance  
8           in the heating mode of air-cooled central air condi-  
9           tioning heat pumps at or above 135,000 Btu per  
10          hour (cooling capacity) and less than 240,000 Btu  
11          per hour (cooling capacity) shall be 3.2 (at a high  
12          temperature rating of 47 degrees F db).

13          “(9) Very large commercial package air conditioning  
14          and heating equipment manufactured on or after January  
15          1, 2010, shall meet the following standards:

16                 “(A) The minimum energy efficiency ratio of  
17                 air-cooled central air conditioners at or above  
18                 240,000 Btu per hour (cooling capacity) and less  
19                 than 760,000 Btu per hour (cooling capacity) shall  
20                 be—

21                         “(i) 10.0 for equipment with no heating or  
22                         electric resistance heating; and

23                         “(ii) 9.8 for equipment with all other heat-  
24                         ing system types that are integrated into the

1 equipment (at a standard rating of 95 degrees  
2 F db).

3 “(B) The minimum energy efficiency ratio of  
4 air-cooled central air conditioner heat pumps at or  
5 above 240,000 Btu per hour (cooling capacity) and  
6 less than 760,000 Btu per hour (cooling capacity)  
7 shall be—

8 “(i) 9.5 for equipment with no heating or  
9 electric resistance heating; and

10 “(ii) 9.3 for equipment with all other heat-  
11 ing system types that are integrated into the  
12 equipment (at a standard rating of 95 degrees  
13 F db).

14 “(C) The minimum coefficient of performance  
15 in the heating mode of air-cooled central air condi-  
16 tioning heat pumps at or above 240,000 Btu per  
17 hour (cooling capacity) and less than 760,000 Btu  
18 per hour (cooling capacity) shall be 3.2 (at a high  
19 temperature rating of 47 degrees F db).”.

20 (c) STANDARDS FOR COMMERCIAL REFRIGERATORS,  
21 FREEZERS, AND REFRIGERATOR-FREEZERS.—Section  
22 342 of the Energy Policy and Conservation Act (42 U.S.C.  
23 6313) is amended by adding at the end the following:

24 “(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND  
25 REFRIGERATOR-FREEZERS.—(1) In this subsection:

1           “(A) The term ‘AV’ means the adjusted volume  
 2           (ft<sup>3</sup>) (defined as 1.63 x frozen temperature compart-  
 3           ment volume (ft<sup>3</sup>) + chilled temperature compart-  
 4           ment volume (ft<sup>3</sup>)) with compartment volumes meas-  
 5           ured in accordance with the Association of Home  
 6           Appliance Manufacturers Standard HRF1–1979.

7           “(B) The term ‘V’ means the chilled or frozen  
 8           compartment volume (ft<sup>3</sup>) (as defined in the Asso-  
 9           ciation of Home Appliance Manufacturers Standard  
 10          HRF1–1979).

11          “(C) Other terms have such meanings as may  
 12          be established by the Secretary, based on industry-  
 13          accepted definitions and practice.

14          “(2) Each commercial refrigerator, freezer, and re-  
 15          frigerator-freezer with a self-contained condensing unit de-  
 16          signed for holding temperature applications manufactured  
 17          on or after January 1, 2010, shall have a daily energy  
 18          consumption (in kilowatt hours per day) that does not ex-  
 19          ceed the following:

“Refrigerators with solid doors .....	0.10 V + 2.04
Refrigerators with transparent doors .....	0.12 V + 3.34
Freezers with solid doors .....	0.40 V + 1.38
Freezers with transparent doors .....	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of ...	0.27 AV – 0.71 or 0.70.

20          “(3) Each commercial refrigerator with a self-con-  
 21          tained condensing unit designed for pull-down tempera-  
 22          ture applications and transparent doors manufactured on

1 or after January 1, 2010, shall have a daily energy con-  
2 sumption (in kilowatt hours per day) of not more than  
3  $0.126 V + 3.51$ .

4 “(4)(A) Not later than January 1, 2009, the Sec-  
5 retary shall issue, by rule, standard levels for ice-cream  
6 freezers, self-contained commercial refrigerators, freezers,  
7 and refrigerator-freezers without doors, and remote con-  
8 densing commercial refrigerators, freezers, and refrig-  
9 erator-freezers, with the standard levels effective for  
10 equipment manufactured on or after January 1, 2012.

11 “(B) The Secretary may issue, by rule, standard lev-  
12 els for other types of commercial refrigerators, freezers,  
13 and refrigerator-freezers not covered by paragraph (2)(A)  
14 with the standard levels effective for equipment manufac-  
15 tured 3 or more years after the date on which the final  
16 rule is published.

17 “(5)(A) Not later than January 1, 2013, the Sec-  
18 retary shall issue a final rule to determine whether the  
19 standards established under this subsection should be  
20 amended.

21 “(B) Not later than 3 years after the effective date  
22 of any amended standards under subparagraph (A) or the  
23 publication of a final rule determining that the standards  
24 should not be amended, the Secretary shall issue a final  
25 rule to determine whether the standards established under

1 this subsection or the amended standards, as applicable,  
2 should be amended.

3 “(C) If the Secretary issues a final rule under sub-  
4 paragraph (A) or (B) establishing amended standards, the  
5 final rule shall provide that the amended standards apply  
6 to products manufactured on or after the date that is—

7 “(i) 3 years after the date on which the final  
8 amended standard is published; or

9 “(ii) if the Secretary determines, by rule, that  
10 3 years is inadequate, not later than 5 years after  
11 the date on which the final rule is published.”.

12 (d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE  
13 MAKERS.—Section 342 of the Energy Policy and Con-  
14 servation Act (42 U.S.C. 6313) (as amended by subsection  
15 (c)) is amended by adding at the end the following:

16 “(d) AUTOMATIC COMMERCIAL ICE MAKERS.—(1)  
17 Each automatic commercial ice maker that produces cube  
18 type ice with capacities between 50 and 2500 pounds per  
19 24-hour period when tested according to the test standard  
20 established in section 343(a)(7) and is manufactured on  
21 or after January 1, 2010, shall meet the following stand-  
22 ard levels:

“Equipment type	Type of cooling	Harvest rate (lbs ice/24 hours)	Maximum energy use (kWh/100 lbs ice)	Maximum condenser water use (gal/100 lbs ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		> or = 500 and <1436	5.58–0.0011H	200–0.022H
Ice making head	Air	> or = 1436 <450	4.0 10.26– 0.0086H	200–0.022H Not applicable
Remote Condensing (but not remote compressor)	Air	> or = 450 <1000	6.89–0.0011H 8.85–0.0038H	Not applicable Not applicable
Remote Condensing and Remote Compressor	Air	> or = 1000 <934	5.10 8.85–0.0038H	Not applicable Not applicable
		> or = 934	5.3	Not applicable

1 “(2)(A) The Secretary may issue, by rule, standard  
2 levels for types of automatic commercial ice makers that  
3 are not covered by paragraph (1).

4 “(B) The standards established under subparagraph  
5 (A) shall apply to products manufactured on or after the  
6 date that is—

7 “(i) 3 years after the date on which the rule is  
8 published under subparagraph (A); or

9 “(ii) if the Secretary determines, by rule, that  
10 3 years is inadequate, not later than 5 years after  
11 the date on which the final rule is published.

12 “(3)(A) Not later than January 1, 2015, with respect  
13 to the standards established under paragraph (1), and,  
14 with respect to the standards established under paragraph  
15 (2), not later than 5 years after the date on which the

1 standards take effect, the Secretary shall issue a final rule  
2 to determine whether amending the applicable standards  
3 is technologically feasible and economically justified.

4 “(B) Not later than 5 years after the effective date  
5 of any amended standards under subparagraph (A) or the  
6 publication of a final rule determining that amending the  
7 standards is not technologically feasible or economically  
8 justified, the Secretary shall issue a final rule to determine  
9 whether amending the standards established under para-  
10 graph (1) or the amended standards, as applicable, is tech-  
11 nologically feasible or economically justified.

12 “(C) If the Secretary issues a final rule under sub-  
13 paragraph (A) or (B) establishing amended standards, the  
14 final rule shall provide that the amended standards apply  
15 to products manufactured on or after the date that is—

16 “(i) 3 years after the date on which the final  
17 amended standard is published; or

18 “(ii) if the Secretary determines, by rule, that  
19 3 years is inadequate, not later than 5 years after  
20 the date on which the final amended standard is  
21 published.

22 “(4) A final rule issued under paragraph (2) or (3)  
23 shall establish standards at the maximum level that is  
24 technically feasible and economically justified, as provided  
25 in subsections (o) and (p) of section 325.”.

1           (e) STANDARDS FOR COMMERCIAL CLOTHES WASH-  
2   ERS.—Section 342 of the Energy Policy and Conservation  
3   Act (42 U.S.C. 6313) (as amended by subsection (d)) is  
4   amended by adding at the end the following:

5           “(e) COMMERCIAL CLOTHES WASHERS.—(1) Each  
6   commercial clothes washer manufactured on or after Jan-  
7   uary 1, 2007, shall have—

8                   “(A) a Modified Energy Factor of at least 1.26;  
9           and

10                   “(B) a Water Factor of not more than 9.5.

11           “(2)(A)(i) Not later than January 1, 2010, the Sec-  
12   retary shall publish a final rule to determine whether the  
13   standards established under paragraph (1) should be  
14   amended.

15           “(ii) The rule published under clause (i) shall provide  
16   that any amended standard shall apply to products manu-  
17   factured 3 years after the date on which the final amended  
18   standard is published.

19           “(B)(i) Not later than January 1, 2015, the Sec-  
20   retary shall publish a final rule to determine whether the  
21   standards established under paragraph (1) should be  
22   amended.

23           “(ii) The rule published under clause (i) shall provide  
24   that any amended standard shall apply to products manu-

1 factured 3 years after the date on which the final amended  
2 standard is published.”.

3 (f) TEST PROCEDURES.—Section 343 of the Energy  
4 Policy and Conservation Act (42 U.S.C. 6314) is amend-  
5 ed—

6 (1) in subsection (a)—

7 (A) in paragraph (4)—

8 (i) in subparagraph (A), by inserting  
9 “very large commercial package air condi-  
10 tioning and heating equipment,” after  
11 “large commercial package air conditioning  
12 and heating equipment,”; and

13 (ii) in subparagraph (B), by inserting  
14 “very large commercial package air condi-  
15 tioning and heating equipment,” after  
16 “large commercial package air conditioning  
17 and heating equipment,”; and

18 (B) by adding at the end the following:

19 “(6)(A)(i) In the case of commercial refrigerators,  
20 freezers, and refrigerator-freezers, the test procedures  
21 shall be—

22 “(I) the test procedures determined by the Sec-  
23 retary to be generally accepted industry testing pro-  
24 cedures; or

1           “(II) rating procedures developed or recognized  
2           by the ASHRAE or by the American National  
3           Standards Institute.

4           “(ii) In the case of self-contained refrigerators, freez-  
5           ers, and refrigerator-freezers to which standards are appli-  
6           cable under paragraphs (2) and (3) of section 342(c), the  
7           initial test procedures shall be the ASHRAE 117 test pro-  
8           cedure that is in effect on January 1, 2005.

9           “(B) In the case of commercial refrigerators, freez-  
10          ers, and refrigerators-freezers with doors covered by the  
11          standards adopted in February 2002, by the California  
12          Energy Commission, the rating temperatures shall be the  
13          integrated average temperature of 38 degrees F (plus or  
14          minus 2 degrees F) for refrigerator compartments and 0  
15          degrees F (plus or minus 2 degrees F) for freezer com-  
16          partments.

17          “(C) The Secretary shall issue a rule in accordance  
18          with paragraphs (2) and (3) to establish the appropriate  
19          rating temperatures for the other products for which  
20          standards will be established under subsection 342(c)(4).

21          “(D) In establishing the appropriate test tempera-  
22          tures under this subparagraph, the Secretary shall follow  
23          the procedures and meet the requirements under section  
24          323(e).

1       “(E)(i) Not later than 180 days after the publication  
2 of the new ASHRAE 117 test procedure, if the ASHRAE  
3 117 test procedure for commercial refrigerators, freezers,  
4 and refrigerator-freezers is amended, the Secretary shall,  
5 by rule, amend the test procedure for the product as nec-  
6 essary to ensure that the test procedure is consistent with  
7 the amended ASHRAE 117 test procedure, unless the  
8 Secretary makes a determination, by rule, and supported  
9 by clear and convincing evidence, that to do so would not  
10 meet the requirements for test procedures under para-  
11 graphs (2) and (3).

12       “(ii) If the Secretary determines that 180 days is an  
13 insufficient period during which to review and adopt the  
14 amended test procedure or rating procedure under clause  
15 (i), the Secretary shall publish a notice in the Federal  
16 Register stating the intent of the Secretary to wait not  
17 longer than 1 additional year before putting into effect  
18 an amended test procedure or rating procedure.

19       “(F)(i) If a test procedure other than the ASHRAE  
20 117 test procedure is approved by the American National  
21 Standards Institute, the Secretary shall, by rule—

22               “(I) review the relative strengths and weak-  
23 nesses of the new test procedure relative to the  
24 ASHRAE 117 test procedure; and

1           “(II) based on that review, adopt 1 new test  
2           procedure for use in the standards program.

3           “(ii) If a new test procedure is adopted under clause  
4 (i)—

5           “(I) section 323(e) shall apply; and

6           “(II) subparagraph (B) shall apply to the  
7           adopted test procedure.

8           “(7)(A) In the case of automatic commercial ice mak-  
9           ers, the test procedures shall be the test procedures speci-  
10          fied in Air-Conditioning and Refrigeration Institute  
11          Standard 810–2003, as in effect on January 1, 2005.

12          “(B)(i) If Air-Conditioning and Refrigeration Insti-  
13          tute Standard 810–2003 is amended, the Secretary shall  
14          amend the test procedures established in subparagraph  
15          (A) as necessary to be consistent with the amended Air-  
16          Conditioning and Refrigeration Institute Standard, unless  
17          the Secretary determines, by rule, published in the Federal  
18          Register and supported by clear and convincing evidence,  
19          that to do so would not meet the requirements for test  
20          procedures under paragraphs (2) and (3).

21          “(ii) If the Secretary issues a rule under clause (i)  
22          containing a determination described in clause (ii), the  
23          rule may establish an amended test procedure for the  
24          product that meets the requirements of paragraphs (2)  
25          and (3).

1 “(C) The Secretary shall comply with section 323(e)  
2 in establishing any amended test procedure under this  
3 paragraph.

4 “(8) With respect to commercial clothes washers, the  
5 test procedures shall be the same as the test procedures  
6 established by the Secretary for residential clothes wash-  
7 ers under section 325(g).”; and

8 (2) in subsection (d)(1), by inserting “very  
9 large commercial package air conditioning and heat-  
10 ing equipment, commercial refrigerators, freezers,  
11 and refrigerator-freezers, automatic commercial ice  
12 makers, commercial clothes washers,” after “large  
13 commercial package air conditioning and heating  
14 equipment,”.

15 (g) LABELING.—Section 344(e) of the Energy Policy  
16 and Conservation Act (42 U.S.C. 6315(e)) is amended by  
17 inserting “very large commercial package air conditioning  
18 and heating equipment, commercial refrigerators, freezers,  
19 and refrigerator-freezers, automatic commercial ice mak-  
20 ers, commercial clothes washers,” after “large commercial  
21 package air conditioning and heating equipment,” each  
22 place it appears.

23 (h) ADMINISTRATION, PENALTIES, ENFORCEMENT,  
24 AND PREEMPTION.—Section 345 of the Energy Policy and  
25 Conservation Act (42 U.S.C. 6316) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (7), by striking “and” at  
3 the end;

4 (B) in paragraph (8), by striking the pe-  
5 riod at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(9) in the case of commercial clothes washers,  
8 section 327(b)(1) shall be applied as if the National  
9 Appliance Energy Conservation Act of 1987 was the  
10 Energy Policy Act of 2005.”;

11 (2) in the first sentence of subsection (b)(1), by  
12 striking “part B” and inserting “part A”; and

13 (3) by adding at the end the following:

14 “(d)(1) Except as provided in paragraphs (2) and  
15 (3), section 327 shall apply with respect to very large com-  
16 mercial package air conditioning and heating equipment  
17 to the same extent and in the same manner as section  
18 327 applies under part A on the date of enactment of this  
19 subsection.

20 “(2) Any State or local standard issued before the  
21 date of enactment of this subsection shall not be pre-  
22 empted until the standards established under section  
23 342(a)(9) take effect on January 1, 2010.

24 “(e)(1)(A) Subsections (a), (b), and (d) of section  
25 326, subsections (m) through (s) of section 325, and sec-

1 tions 328 through 336 shall apply with respect to commer-  
2 cial refrigerators, freezers, and refrigerator-freezers to the  
3 same extent and in the same manner as those provisions  
4 apply under part A.

5 “(B) In applying those provisions to commercial re-  
6 frigerators, freezers, and refrigerator-freezers, paragraphs  
7 (1), (2), (3), and (4) of subsection (a) shall apply.

8 “(2)(A) Section 327 shall apply to commercial refrig-  
9 erators, freezers, and refrigerator-freezers for which  
10 standards are established under paragraphs (2) and (3)  
11 of section 342(c) to the same extent and in the same man-  
12 ner as those provisions apply under part A on the date  
13 of enactment of this subsection, except that any State or  
14 local standard issued before the date of enactment of this  
15 subsection shall not be preempted until the standards es-  
16 tablished under paragraphs (2) and (3) of section 342(c)  
17 take effect.

18 “(B) In applying section 327 in accordance with sub-  
19 paragraph (A), paragraphs (1), (2), and (3) of subsection  
20 (a) shall apply.

21 “(3)(A) Section 327 shall apply to commercial refrig-  
22 erators, freezers, and refrigerator-freezers for which  
23 standards are established under section 342(c)(4) to the  
24 same extent and in the same manner as the provisions  
25 apply under part A on the date of publication of the final

1 rule by the Secretary, except that any State or local stand-  
2 ard issued before the date of publication of the final rule  
3 by the Secretary shall not be preempted until the stand-  
4 ards take effect.

5 “(B) In applying section 327 in accordance with sub-  
6 paragraph (A), paragraphs (1), (2), and (3) of subsection  
7 (a) shall apply.

8 “(4)(A) If the Secretary does not issue a final rule  
9 for a specific type of commercial refrigerator, freezer, or  
10 refrigerator-freezer within the time frame specified in sec-  
11 tion 342(c)(5), subsections (b) and (c) of section 327 shall  
12 not apply to that specific type of refrigerator, freezer, or  
13 refrigerator-freezer for the period beginning on the date  
14 that is 2 years after the scheduled date for a final rule  
15 and ending on the date on which the Secretary publishes  
16 a final rule covering the specific type of refrigerator, freez-  
17 er, or refrigerator-freezer.

18 “(B) Any State or local standard issued before the  
19 date of publication of the final rule shall not be preempted  
20 until the final rule takes effect.

21 “(5)(A) In the case of any commercial refrigerator,  
22 freezer, or refrigerator-freezer to which standards are ap-  
23 plicable under paragraphs (2) and (3) of section 342(c),  
24 the Secretary shall require manufacturers to certify,  
25 through an independent, nationally recognized testing or

1 certification program, that the commercial refrigerator,  
2 freezer, or refrigerator-freezer meets the applicable stand-  
3 ard.

4 “(B) The Secretary shall, to the maximum extent  
5 practicable, encourage the establishment of at least 2 inde-  
6 pendent testing and certification programs.

7 “(C) As part of certification, information on equip-  
8 ment energy use and interior volume shall be made avail-  
9 able to the Secretary.

10 “(e)(1)(A)(i) Except as provided in clause (ii), section  
11 327 shall apply to automatic commercial ice makers for  
12 which standards have been established under section  
13 342(d)(1) to the same extent and in the same manner as  
14 the section applies under part A on the date of enactment  
15 of this subsection.

16 “(ii) Any State standard issued before the date of en-  
17 actment of this subsection shall not be preempted until  
18 the standards established under section 342(d)(1) take ef-  
19 fect.

20 “(B) In applying section 327 to the equipment under  
21 subparagraph (A), paragraphs (1), (2), and (3) of sub-  
22 section (a) shall apply.

23 “(2)(A)(i) Except as provided in clause (ii), section  
24 327 shall apply to automatic commercial ice makers for  
25 which standards have been established under section

1 342(d)(2) to the same extent and in the same manner as  
2 the section applies under part A on the date of publication  
3 of the final rule by the Secretary.

4 “(ii) Any State standard issued before the date of  
5 publication of the final rule by the Secretary shall not be  
6 preempted until the standards established under section  
7 342(d)(2) take effect.

8 “(B) In applying section 327 in accordance with sub-  
9 paragraph (A), paragraphs (1), (2), and (3) of subsection  
10 (a) shall apply.

11 “(3)(A) If the Secretary does not issue a final rule  
12 for a specific type of automatic commercial ice maker  
13 within the time frame specified in subsection 342(d), sub-  
14 sections (b) and (c) of section 327 shall no longer apply  
15 to the specific type of automatic commercial ice maker for  
16 the period beginning on the day after the scheduled date  
17 for a final rule and ending on the date on which the Sec-  
18 retary publishes a final rule covering the specific type of  
19 automatic commercial ice maker.

20 “(B) Any State standard issued before the publica-  
21 tion of the final rule shall not be preempted until the  
22 standards established in the final rule take effect.

23 “(4)(A) The Secretary shall monitor whether manu-  
24 facturers are reducing harvest rates below tested values

1 for the purpose of bringing non-complying equipment into  
2 compliance.

3 “(B) If the Secretary finds that there has been a sub-  
4 stantial amount of manipulation with respect to harvest  
5 rates under subparagraph (A), the Secretary shall take  
6 steps to minimize the manipulation, such as requiring har-  
7 vest rates to be within 5 percent of tested values.

8 “(g)(1)(A) If the Secretary does not issue a final rule  
9 for commercial clothes washers within the timeframe spec-  
10 ified in section 342(e)(2), subsections (b) and (c) of sec-  
11 tion 327 shall not apply to commercial clothes washers for  
12 the period beginning on the day after the scheduled date  
13 for a final rule and ending on the date on which the Sec-  
14 retary publishes a final rule covering commercial clothes  
15 washers.

16 “(B) Any State or local standard issued before the  
17 date on which the Secretary publishes a final rule shall  
18 not be preempted until the standards established under  
19 section 342(e)(2) take effect.

20 “(2) The Secretary shall undertake an educational  
21 program to inform owners of laundromats, multifamily  
22 housing, and other sites where commercial clothes washers  
23 are located about the new standard, including impacts on  
24 washer purchase costs and options for recovering those  
25 costs through coin collection.”.

1 **SEC. 103. ENERGY LABELING.**

2 (a) RULEMAKING ON EFFECTIVENESS OF CONSUMER  
3 PRODUCT LABELING.—Section 324(a)(2) of the Energy  
4 Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is  
5 amended by adding at the end the following:

6 “(F)(i) Not later than 90 days after the  
7 date of enactment of this subparagraph, the  
8 Commission shall initiate a rulemaking to con-  
9 sider—

10 “(I) the effectiveness of the consumer  
11 products labeling program in assisting con-  
12 sumers in making purchasing decisions  
13 and improving energy efficiency; and

14 “(II) changes to the labeling rules (in-  
15 cluding categorical labeling) that would im-  
16 prove the effectiveness of consumer prod-  
17 uct labels.

18 “(ii) Not later than 2 years after the date  
19 of enactment of this subparagraph, the Com-  
20 mission shall complete the rulemaking initiated  
21 under clause (i).”.

22 (b) RULEMAKING ON LABELING FOR ADDITIONAL  
23 PRODUCTS.—Section 324(a) of the Energy Policy and  
24 Conservation Act (42 U.S.C. 6294(a)) is amended by add-  
25 ing at the end the following:

1           “(5)(A) For covered products described in sub-  
2           sections (u) through (ee) of section 325, after a test  
3           procedure has been prescribed under section 323,  
4           the Secretary or the Commission, as appropriate,  
5           may prescribe, by rule, under this section labeling  
6           requirements for the products.

7           “(B) In the case of products to which TP–1  
8           standards under section 325(y) apply, labeling re-  
9           quirements shall be based on the ‘Standard for the  
10          Labeling of Distribution Transformer Efficiency’  
11          prescribed by the National Electrical Manufacturers  
12          Association (NEMA TP–3) as in effect on the date  
13          of enactment of this paragraph.

14          “(C) In the case of dehumidifiers covered under  
15          section 325(dd), the Commission shall not require  
16          an ‘Energy Guide’ label.”.

17 **SEC. 104. EQUIPMENT STANDARDS AND ANALYSIS PRO-**  
18 **GRAM.**

19          (a) IN GENERAL.—Not later than 180 days after the  
20          date of enactment of this Act, the Secretary shall submit  
21          to Congress a report that—

22                 (1) explains the reasons for the failure of the  
23          Secretary to complete, by any applicable deadlines,  
24          required rulemakings under the equipment stand-

1 ards and analysis program for issuance of appliance  
2 and equipment standards; and

3 (2) provides plans and timetables for comple-  
4 tion of each of the rulemakings described in para-  
5 graph (1) that has not been completed as of the date  
6 of enactment of this Act.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to the Secretary to carry  
9 out the equipment standards and analysis program of the  
10 Department of Energy—

11 (1) \$20,000,000 for fiscal year 2006;

12 (2) \$25,000,000 for fiscal year 2007;

13 (3) \$30,000,000 for fiscal year 2008;

14 (4) \$35,000,000 for fiscal year 2009; and

15 (5) \$40,000,000 for fiscal year 2010.

## 16 **Subtitle B—Building Energy Codes**

### 17 **SEC. 111. STATE BUILDING ENERGY EFFICIENCY CODES IN-** 18 **CENTIVES.**

19 Section 304 of the Energy Conservation and Produc-  
20 tion Act (42 U.S.C. 6833) is amended in subsection (e)—

21 (1) in paragraph (1) by inserting at the end of  
22 the first sentence “, including increasing and  
23 verifying compliance with such codes”; and

24 (2) by striking paragraph (2) and inserting the  
25 following:

1           “(2) Additional funding shall be provided under  
2 this subsection for implementations of a plan to  
3 achieve and document at least 90 percent rate of  
4 compliance with residential and commercial building  
5 energy efficiency codes, based on energy perform-  
6 ance—

7           “(A) to a State that has adopted and is  
8 implementing, on a statewide basis—

9           “(i) a residential building energy effi-  
10 ciency code that meets or exceeds the re-  
11 quirements of the 2004 International En-  
12 ergy Conservation Code, or any succeeding  
13 version of this code that has received an  
14 affirmative determination from the Sec-  
15 retary under subsection (a)(5)(A) of this  
16 section; and

17           “(ii) a commercial building energy ef-  
18 ficiency code that meets or exceeds the re-  
19 quirements of the ASHRAE Standard  
20 90.1–2004, or any succeeding version of  
21 this standard that has received an affirma-  
22 tive determination from the Secretary  
23 under subsection (b)(2)(A) of this section;  
24 or

1           “(B) in States in which there is no state-  
2           wide energy code either for residential buildings  
3           or for commercial buildings, to a local govern-  
4           ment that has adopted and is implementing res-  
5           idential and commercial building energy effi-  
6           ciency codes as described in subparagraph (A).

7           “(3) Of the amounts made available under this  
8           part, the Secretary may use \$500,000 for each fiscal  
9           year to train State and local officials.

10           “(4)(A) There is authorized to be appropriated  
11           to carry out this subsection \$25,000,000 for each of  
12           fiscal years 2006 through 2010, and such sums as  
13           may be necessary for each fiscal year after 2010.

14           “(B) Funding to States under paragraph (2) in  
15           each fiscal year shall not exceed half of the excess  
16           of funding under this subsection over \$5,000,000.”.

17 **SEC. 112. ENERGY CODE APPLICABLE TO MANUFACTURED**  
18 **HOUSING.**

19           Section 604 of the National Manufacturing Housing  
20           Construction and Safety Standards Act of 1974 (42  
21           U.S.C. 5403) is amended in subsection (g) by striking  
22           paragraphs (2) and (3) and inserting the following:

23           “(2) The energy conservation standards estab-  
24           lished under this subsection shall be based on the  
25           most recent version of the International Energy

1 Conservation Code (including supplements) except  
2 where the Secretary finds that such code is not cost-  
3 effective, or a more stringent standard would be  
4 more cost-effective, based on total life-cycle con-  
5 struction and operating costs.

6 “(3) The energy conservation standards estab-  
7 lished under this subsection may—

8 “(A) take into consideration the design  
9 and factory construction techniques of manufac-  
10 tured homes;

11 “(B) be based on the climate zones estab-  
12 lished by the Department of Housing and  
13 Urban Development rather than those under  
14 the International Energy Conservation Code;  
15 and

16 “(C) provide for alternative practices that  
17 result in net estimated energy consumption  
18 equal to or less than the specified standards.”.

19 **SEC. 113. ENERGY EFFICIENCY STANDARDS.**

20 Section 109 of the Cranston-Gonzalez National Af-  
21 fordable Housing Act (42 U.S.C. 12709) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1)—

24 (i) by striking “1 year after the date  
25 of the enactment of the Energy Policy Act

1 of 1992” and inserting “September 30,  
2 2006”;

3 (ii) in subparagraph (A), by striking  
4 “and” at the end;

5 (iii) in subparagraph (B), by striking  
6 the period at the end and inserting “;  
7 and”; and

8 (iv) by adding at the end the fol-  
9 lowing:

10 “(C) rehabilitation and new construction of  
11 public and assisted housing funded by HOPE  
12 VI revitalization grants under section 24 of the  
13 United States Housing Act of 1937 (42 U.S.C.  
14 1437v), where such standards are determined  
15 to be cost effective by the Secretary of Housing  
16 and Urban Development.”; and

17 (B) in paragraph (2), by striking “Council  
18 of American” and all that follows through  
19 “90.1–1989” and inserting “2004 International  
20 Energy Conservation Code”;

21 (2) in subsection (b)—

22 (A) by striking “within 1 year after the  
23 date of the enactment of the Energy Policy Act  
24 of 1992” and inserting “by September 30,  
25 2006”; and

1 (B) by striking “CABO” and all that fol-  
2 lows through “1989” and inserting “the 2004  
3 International Energy Conservation Code”; and  
4 (3) in subsection (c)—

5 (A) in the heading, by striking “**MODEL**  
6 **ENERGY CODE**” and inserting “and the  
7 **INTERNATIONAL ENERGY CONSERVATION**  
8 **CODE**” after ; and

9 (B) by striking “CABO” and all that fol-  
10 lows through “1989” and inserting “the 2004  
11 International Energy Conservation Code”.

12 (4) by adding at the end the following:

13 “(d) If the Secretaries have not, within 1 year after  
14 the requirements of the 2004 International Energy Con-  
15 servation Code are revised, amended the standards or  
16 made a determination under subsection (c) of this section,  
17 and if the Secretary of Energy has made a determination  
18 under section 304 of the Energy Conservation and Pro-  
19 duction Act (42 U.S.C. 6833) that the revised code would  
20 improve energy efficiency, all new construction of housing  
21 specified in subsection (a) shall meet the requirements of  
22 the revised International Energy Conservation Code.”.

1                   **Subtitle C—Energy Star**

2   **SEC. 121. ENERGY STAR PROGRAM.**

3           (a) IN GENERAL.—The Energy Policy and Conserva-  
4   tion Act is amended by inserting after section 324 (42  
5   U.S.C. 6294) the following:

6                               “ENERGY STAR PROGRAM

7           “SEC. 324A. (a) IN GENERAL.—There is established  
8   within the Department of Energy and the Environmental  
9   Protection Agency a voluntary program to identify and  
10  promote energy-efficient products and buildings in order  
11  to reduce energy consumption, improve energy security,  
12  and reduce pollution through voluntary labeling of, or  
13  other forms of communication about, products and build-  
14  ings that meet the highest energy efficiency standards.

15           “(b) DIVISION OF RESPONSIBILITIES.—Responsibil-  
16  ities under the program shall be divided between the De-  
17  partment of Energy and the Environmental Protection  
18  Agency in accordance with the terms of applicable agree-  
19  ments between those agencies.

20           “(c) DUTIES.—The Administrator and the Secretary  
21  shall—

22                               “(1) promote Energy Star compliant tech-  
23           nologies as the preferred technologies in the market-  
24           place for—

25                                       “(A) achieving energy efficiency; and

1 “(B) reducing pollution;

2 “(2) work to enhance public awareness of the  
3 Energy Star label, including by providing special  
4 outreach to small businesses;

5 “(3) preserve the integrity of the Energy Star  
6 label by—

7 “(A) regularly updating Energy Star cri-  
8 teria; and

9 “(B) ensuring, in general, that—

10 “(i) not more than 25 percent of  
11 available models in a product class receive  
12 the Energy Star designation; and

13 “(ii) Energy Star designated products  
14 and buildings are at least 10 percent more  
15 efficient than—

16 “(I) appliance standards in effect  
17 on the date of enactment of this sec-  
18 tion; and

19 “(II) the most recent model en-  
20 ergy code;

21 “(4) solicit comments from interested parties  
22 prior to establishing or revising an Energy Star  
23 product category, specification, or criterion (or prior  
24 to effective dates for any such product category,  
25 specification, or criterion);

1           “(5) on adoption of a new or revised product  
2 category, specification, or criterion, provide reason-  
3 able notice to interested parties of any changes (in-  
4 cluding effective dates) in product categories, speci-  
5 fications, or criteria, along with—

6                   “(A) an explanation of the changes; and

7                   “(B) as appropriate, responses to com-  
8 ments submitted by interested parties; and

9           “(6) provide appropriate lead time (which shall  
10 be 270 days, unless the Agency or Department  
11 specifies otherwise) prior to the applicable effective  
12 date for a new or a significant revision to a product  
13 category, specification, or criterion, taking into ac-  
14 count the timing requirements of the manufacturing,  
15 product marketing, and distribution process for the  
16 specific product addressed.

17           “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
18 are authorized to be appropriated to carry out this sec-  
19 tion—

20                   “(1) \$70,000,000 for fiscal year 2006;

21                   “(2) \$90,000,000 for fiscal year 2007;

22                   “(3) \$110,000,000 for fiscal year 2008;

23                   “(4) \$130,000,000 for fiscal year 2009; and

24                   “(5) \$150,000,000 for fiscal year 2010.”.

1 (b) TABLE OF CONTENTS AMENDMENT.—The table  
 2 of contents of the Energy Policy and Conservation Act (42  
 3 U.S.C. prec. 6201) is amended by inserting after the item  
 4 relating to section 324 the following:

“324A. Energy Star program.”.

## 5 **Subtitle D—Federal Buildings**

### 6 **SEC. 131. FEDERAL BUILDING PERFORMANCE STANDARDS.**

7 Section 305(a) of the Energy Conservation and Pro-  
 8 duction Act (42 U.S.C. 6834(a)) is amended—

9 (1) in paragraph (2)(A)—

10 (A) by striking “CABO Model Energy  
 11 Code, 1992” and inserting “the 2004 Inter-  
 12 national Energy Conservation Code”; and

13 (B) by striking “90.1–1989” and inserting  
 14 “90.1–2004”; and

15 (2) by adding at the end the following:

16 “(3)(A)(i) Unless demonstrated not to be life-cycle  
 17 cost-effective, for each new and renovated Federal build-  
 18 ing—

19 “(I) such building be designed, constructed,  
 20 commissioned, and operated so as to achieve energy  
 21 consumption levels at least 30 percent below those of  
 22 the version current as of the date of enactment of  
 23 this paragraph of the ASHRAE Standard or the  
 24 International Energy Conservation Code, as appro-  
 25 priate; and

1           “(II) sustainable design principles are applied  
2           to the siting, design, construction, operation, and  
3           maintenance of all new and replacement buildings;  
4           and

5           “(ii) where water is used to achieve energy efficiency,  
6           water conservation technologies shall be applied to the ex-  
7           tent they are life-cycle cost effective.

8           “(B) Not later than 1 year after the date of approval  
9           of each subsequent revision of the ASHRAE Standard or  
10          the International Energy Conservation Code, as appro-  
11          priate, the Secretary of Energy shall determine (based on  
12          the cost-effectiveness of the requirements under the  
13          amendments) whether the revised standards established  
14          under this paragraph should be updated to reflect the  
15          amendments.

16          “(C) In the budget request of the Federal agency for  
17          each fiscal year and each report submitted by the Federal  
18          agency under section 548(a) of the National Energy Con-  
19          servation Policy Act (42 U.S.C. 8258(a)), the head of each  
20          Federal agency shall include—

21                  “(i) a list of all new Federal buildings owned,  
22                  operated, or controlled by the Federal agency; and

23                  “(ii) a statement concerning whether the Fed-  
24                  eral buildings meet or exceed the revised standards  
25                  established under this paragraph.

1       “(4) All housing constructed under the military hous-  
2 ing privatization initiative of the Department of Defense  
3 shall, where such designations and products are avail-  
4 able—

5               “(A) be Energy Star qualified;

6               “(B) be equipped with Energy Star appliances  
7 and FEMP designated appliances; and

8               “(C) include Energy Star lighting.”.

## 9       **TITLE II—TRANSPORTATION**

### 10       **SEC. 201. ALTERNATIVE COMPLIANCE WITH FLEET RULES.**

11       (a) USE OF ALTERNATIVE FUELS BY DUAL-FUELED  
12 VEHICLES.—Section 400AA(a)(3)(E) of the Energy Pol-  
13 icy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is  
14 amended to read as follows:

15       “(E)(i) Dual fueled vehicles acquired pursuant to this  
16 section shall be operated on alternative fuels unless the  
17 Secretary determines that an agency qualifies for a waiver  
18 of that requirement for vehicles operated by the agency  
19 in a particular geographic area in which—

20               “(I) the alternative fuel otherwise required to  
21 be used in the vehicle is not reasonably available to  
22 retail purchasers of the fuel, as certified to the Sec-  
23 retary by the head of the agency; or

24               “(II) the cost of the alternative fuel otherwise  
25 required to be used in the vehicle is unreasonably

1 more expensive compared to gasoline, as certified to  
2 the Secretary by the head of the agency.

3 “(ii) The Secretary shall monitor compliance with  
4 this subparagraph by all agency fleets and shall submit  
5 annually to Congress a report that—

6 “(I) describes the extent to which the require-  
7 ments of this subparagraph are being achieved; and

8 “(II) includes information on annual reductions  
9 achieved from the use of petroleum-based fuels and  
10 the problems, if any, encountered in acquiring alter-  
11 native fuels.”.

12 (b) ALTERNATIVE COMPLIANCE AND FLEXIBILITY.—

13 (1) ALTERNATIVE COMPLIANCE.—Title V of the  
14 Energy Policy Act of 1992 (42 U.S.C. 13251 et  
15 seq.) is amended—

16 (A) by redesignating section 514 as section  
17 515; and

18 (B) by inserting after section 513 the fol-  
19 lowing:

20 **“SEC. 514. ALTERNATIVE COMPLIANCE.**

21 “(a) APPLICATION FOR WAIVER.—Any head of a  
22 Federal agency described in section 303(b)(3), any cov-  
23 ered person subject to section 501, and any State subject  
24 to section 507(o) may petition the Secretary for a waiver

1 of the applicable requirements of section 303, 501, or  
2 507(o).

3 “(b) GRANT OF WAIVER.—The Secretary may grant  
4 a waiver of the requirements of section 303, 501, or  
5 507(o) upon a showing that the fleet owned, operated,  
6 leased, or otherwise controlled by the Federal agency,  
7 State, or covered person—

8 “(1) will achieve a reduction in its annual con-  
9 sumption of petroleum fuels equal to the reduction  
10 in consumption of petroleum that would result from  
11 100 percent compliance with fuel use requirements  
12 in section 501 or 303, as appropriate, or, for entities  
13 covered under section 507(o), a reduction equal to  
14 the covered State entity’s consumption of alternative  
15 fuels if all its alternative fuel vehicles given credit  
16 under section 508 were to use alternative fuel 100  
17 percent of the time; and

18 “(2) is in compliance with all applicable vehicle  
19 emission standards established by the Administrator  
20 under the Clean Air Act (42 U.S.C. 7401 et seq.).

21 “(c) REVOCATION OF WAIVER.—The Secretary shall  
22 revoke any waiver granted under this section if the Fed-  
23 eral agency, State, or covered person fails to comply with  
24 subsection (b).”.

1           (2) TABLE OF CONTENTS AMENDMENT.—The  
2 table of contents of the Energy Policy Act of 1992  
3 (42 U.S.C. prec. 13201) is amended by striking the  
4 item relating to section 514 and inserting the fol-  
5 lowing:

“514. Alternative compliance.

“515. Authorization of appropriations.”.

6           (c) CREDITS.—Section 508(a) of the Energy Policy  
7 Act of 1992 (42 U.S.C. 13258(a)) is amended—

8           (1) by striking “The Secretary” and inserting  
9 the following:

10           “(1) The Secretary”; and

11           (2) by adding at the end the following:

12           “(2) Not later than January 31, 2007, the Sec-  
13 retary shall—

14           “(A) allocate credit in an amount to be de-  
15 termined by the Secretary for—

16           “(i) acquisition of—

17           “(I) a light-duty hybrid electric  
18 vehicle;

19           “(II) a plug-in hybrid electric ve-  
20 hicle;

21           “(III) a fuel cell electric vehicle;

22           “(IV) a medium- or heavy-duty  
23 hybrid electric vehicle;

1                   “(V) a neighborhood electric ve-  
2                   hicle; or

3                   “(VI) a medium- or heavy-duty  
4                   dedicated vehicle; and

5                   “(ii) investment in qualified alter-  
6                   native fuel infrastructure or nonroad  
7                   equipment, as determined by the Sec-  
8                   retary; and

9                   “(B) allocate more than 1, but not to ex-  
10                  ceed 5, credits for investment in an emerging  
11                  technology relating to any vehicle described in  
12                  subparagraph (A) to encourage—

13                   “(i) a reduction in petroleum demand;

14                   “(ii) technological advancement; and

15                   “(iii) environmental safety.”.

16                  (d) FEDERAL FLEET.—Section 303 of the Energy  
17                  Policy Act of 1992 (42 U.S.C. 13212) is amended—

18                   (1) by redesignating subsection (f) as sub-  
19                   section (g); and

20                   (2) by inserting after subsection (e) the fol-  
21                   lowing:

22                   “(f) CREDIT.—The Secretary shall allocate to a Fed-  
23                   eral fleet credits toward meeting the requirements of sub-  
24                   section (b) of this section under the same allocation as  
25                   determined under subsection (a)(2) of section 508.”.

1 **SEC. 202. STANDARDS FOR EXECUTIVE AGENCY AUTO-**  
2 **MOBILES.**

3 Section 32917 of title 49, United States Code, is  
4 amended to read as follows:

5 **“§ 32917. Standards for Executive agency automobiles**

6 **“(a) DEFINITIONS.—**In this section:

7 **“(1)** The term ‘automobile’ does not include  
8 any vehicle designed for combat-related missions,  
9 law enforcement work, or emergency rescue work.

10 **“(2)** The term ‘executive agency’ has the mean-  
11 ing given that term in section 105 of title 5.

12 **“(3)** The term ‘new automobile’, with respect to  
13 the fleet of automobiles of an executive agency,  
14 means an automobile that is leased for at least 60  
15 consecutive days or bought, by or for the agency,  
16 after September 30, 2004.”.

17 **“(b) BASELINE AVERAGE FUEL ECONOMY.—**

18 **“(1) IN GENERAL.—**In accordance with guid-  
19 ance issued under subsection (d), the head of each  
20 executive agency shall calculate, for all automobiles  
21 in the agency’s fleet of automobiles that were leased  
22 or bought as a new vehicle in fiscal year 2004, the  
23 average fuel economy for the automobiles.

24 **“(2) BASELINE.—**In this section, the average  
25 fuel economy as calculated in paragraph (1) shall be

1 the baseline average fuel economy for the agency's  
2 fleet of automobiles.

3 “(c) INCREASE OF AVERAGE FUEL ECONOMY.—The  
4 head of an executive agency shall manage the procurement  
5 of automobiles for that agency so that not later than Sep-  
6 tember 30, 2008, the average fuel economy of the new  
7 automobiles in the agency's fleet of automobiles is not less  
8 than 3 miles per gallon higher than the baseline average  
9 fuel economy determined under subsection (b) for that  
10 fleet.

11 “(d) CALCULATION OF AVERAGE FUEL ECONOMY.—  
12 The Secretary of Transportation shall issue guidance to  
13 carry out this section, including guidance for the calcula-  
14 tion of average fuel economy.”.

## 15 **TITLE III—INDUSTRY**

### 16 **SEC. 301. VOLUNTARY COMMITMENTS TO REDUCE INDUS-** 17 **TRIAL ENERGY INTENSITY.**

18 (a) DEFINITIONS.—In this section:

19 (1) ENERGY INTENSITY.—The term “energy in-  
20 tensity” means the primary energy consumed for  
21 each unit of physical output in an industrial process.

22 (2) SECRETARY.—The term “Secretary” means  
23 the Secretary of Energy, acting in cooperation with  
24 the Administrator of the Environmental Protection  
25 Agency.

1           (b) VOLUNTARY AGREEMENTS.—The Secretary shall  
2 enter into voluntary agreements with 1 or more entities  
3 in industrial sectors that consume significant quantities  
4 of primary energy for each unit of physical output to re-  
5 duce the energy intensity of the production activities of  
6 the entities.

7           (c) GOAL.—Voluntary agreements under this section  
8 shall have as a goal the reduction of energy intensity by  
9 not less than 2.5 percent each year during the period of  
10 calendar years 2007 through 2016.

11          (d) RECOGNITION.—The Secretary, in cooperation  
12 with other appropriate Federal agencies, shall develop  
13 mechanisms to recognize and publicize the achievements  
14 of participants in voluntary agreements under this section.

15          (e) TECHNICAL ASSISTANCE.—An entity that enters  
16 into an agreement under this section and continues to  
17 make a good faith effort to achieve the energy efficiency  
18 goals specified in the agreement shall be eligible to receive  
19 from the Secretary a grant or technical assistance, as ap-  
20 propriate, to assist in the achievement of those goals.

21          (f) REPORT.—Not later than each of June 30, 2012,  
22 and June 30, 2016, the Secretary shall submit to Con-  
23 gress a report that—

24               (1) evaluates the success of the voluntary agree-  
25               ments under this section;

1           (2) provides independent verification of any en-  
2           ergy savings achieved as a result of the voluntary  
3           agreements below a no-commitment baseline for each  
4           participating firm; and

5           (3) identifies incentives and other measures  
6           needed to assist industries in achieving energy inten-  
7           sity reductions.

8           (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
9           authorized to be appropriated to carry out this section  
10          \$15,000,000 for each of fiscal years 2006 through 2010,  
11          and such sums as may be necessary for each fiscal year  
12          after 2010.

13          **TITLE IV—ELECTRICITY AND**  
14          **NATURAL GAS UTILITIES AND**  
15          **SUPPLIERS**

16          **SEC. 401. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS**  
17          **UTILITIES STUDY.**

18          (a) IN GENERAL.—Not later than 1 year after the  
19          date of enactment of this Act, the Secretary, in consulta-  
20          tion with the National Association of Regulatory Utility  
21          Commissioners and the National Association of State En-  
22          ergy Officials, shall conduct a study of State and regional  
23          policies that promote cost-effective programs to reduce en-  
24          ergy consumption (including energy efficiency programs)  
25          that are carried out by—

- 1 (1) utilities that are subject to State regulation;
- 2 and
- 3 (2) nonregulated utilities.

4 (b) CONSIDERATION.—In conducting the study under  
5 subsection (a), the Secretary shall take into consider-  
6 ation—

- 7 (1) performance standards for achieving energy  
8 use and demand reduction targets;
- 9 (2) funding sources, including rate surcharges;
- 10 (3) infrastructure planning approaches (includ-  
11 ing energy efficiency programs) and infrastructure  
12 improvements;
- 13 (4) the costs and benefits of consumer edu-  
14 cation programs conducted by State and local gov-  
15 ernments and local utilities to increase consumer  
16 awareness of energy efficiency technologies and  
17 measures; and
- 18 (5) methods of—
  - 19 (A) removing disincentives for utilities to  
20 implement energy efficiency programs;
  - 21 (B) encouraging utilities to undertake vol-  
22 untary energy efficiency programs; and
  - 23 (C) ensuring appropriate returns on energy  
24 efficiency programs.

1 (c) REPORT.—Not later than 1 year after the date  
2 of enactment of this Act, the Secretary shall submit to  
3 Congress a report that includes—

4 (1) the findings of the study; and

5 (2) any recommendations of the Secretary, in-  
6 cluding recommendations on model policies to pro-  
7 mote energy efficiency programs.

8 **SEC. 402. ENERGY EFFICIENCY PILOT PROGRAM.**

9 (a) IN GENERAL.—The Secretary shall establish a  
10 pilot program under which the Secretary provides financial  
11 assistance to at least 3, but not more than 7, States to  
12 carry out pilot projects in the States for—

13 (1) planning and adopting statewide programs  
14 that encourage, for each year in which the pilot  
15 project is carried out—

16 (A) energy efficiency; and

17 (B) reduction of consumption of electricity  
18 or natural gas in the State by at least 0.75 per-  
19 cent, as compared to a baseline determined by  
20 the Secretary for the period preceding the im-  
21 plementation of the program; or

22 (2) for any State that has adopted a statewide  
23 program as of the date of enactment of this Act, ac-  
24 tivities that reduce energy consumption in the State  
25 by expanding and improving the program.

1 (b) VERIFICATION.—A State that receives financial  
2 assistance under subsection (a)(1) shall submit to the Sec-  
3 retary independent verification of any energy savings  
4 achieved through the statewide program.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to carry out this section  
7 \$5,000,000 for each of fiscal years 2006 through 2010,  
8 to remain available until expended.

9 **SEC. 403. ENERGY EFFICIENCY RESOURCE PROGRAMS.**

10 (a) ELECTRIC UTILITY PROGRAMS.—Section 111 of  
11 the Public Utilities Regulatory Policy Act of 1978 (16  
12 U.S.C. 2621) is amended by adding at the end the fol-  
13 lowing:

14 “(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

15 “(1) DEFINITIONS.—In this subsection:

16 “(A) DEMAND BASELINE.—The term ‘de-  
17 mand baseline’ means the baseline determined  
18 by the Secretary for an appropriate period pre-  
19 ceding the implementation of an energy effi-  
20 ciency resource program.

21 “(B) ENERGY EFFICIENCY RESOURCE PRO-  
22 GRAMS.—The term ‘energy efficiency resource  
23 program’ means an energy efficiency or other  
24 demand reduction program that is designed to  
25 reduce annual electricity consumption or peak

1 demand of consumers served by an electric util-  
2 ity by a percentage of the demand baseline of  
3 the utility that is equal to not less than 0.75  
4 percent of the number of years during which  
5 the program is in effect.

6 “(2) PUBLIC HEARINGS; DETERMINATIONS.—

7 “(A) As soon as practicable after the date  
8 of enactment of this subsection, but not later  
9 than 3 years after that date, each State regu-  
10 latory authority (with respect to each electric  
11 utility over which the State has ratemaking au-  
12 thority) and each nonregulated electric utility  
13 shall, after notice, conduct a public hearing on  
14 the benefits and feasibility of implementing an  
15 energy efficiency resource program.

16 “(B) A State regulatory authority or non-  
17 regulated utility shall implement an energy effi-  
18 ciency resource program if, on the basis of a  
19 hearing under subparagraph (A), the State reg-  
20 ulatory authority or nonregulated utility deter-  
21 mines that the program would—

22 “(i) benefit end-use customers;

23 “(ii) be cost-effective based on total  
24 resource cost;

25 “(iii) serve the public welfare; and

1 “(iv) be feasible to implement.

2 “(3) IMPLEMENTATION.—

3 “(A) STATE REGULATORY AUTHORITIES.—

4 If a State regulatory authority makes a deter-  
5 mination under paragraph (2)(B), the State  
6 regulatory authority shall—

7 “(i) require each electric utility over  
8 which the State has ratemaking authority  
9 to implement an energy efficiency resource  
10 program; and

11 “(ii) allow such a utility to recover  
12 any expenditures incurred by the utility in  
13 implementing the energy efficiency re-  
14 source program.

15 “(B) NONREGULATED ELECTRIC UTILI-  
16 TIES.—If a nonregulated electric utility makes  
17 a determination under paragraph (2)(B), the  
18 utility shall implement an energy efficiency re-  
19 source program.

20 “(4) UPDATING REGULATIONS.—A State regu-  
21 latory authority or nonregulated utility may update  
22 periodically a determination under paragraph (2)(B)  
23 to determine whether an energy efficiency resource  
24 program should be—

25 “(A) continued;,”

1 “(B) modified; or

2 “(C) terminated.

3 “(5) EXCEPTION.—Paragraph (2) shall not  
4 apply to a State regulatory authority (or any non-  
5 regulated electric utility operating in the State) that  
6 demonstrates to the Secretary that an energy effi-  
7 ciency resource program is in effect in the State.”.

8 (b) GAS UTILITIES.—Section 303 of the Public Utili-  
9 ties Regulatory Policy Act of 1978 (15 U.S.C. 3203) is  
10 amended by adding at the end the following:

11 “(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

12 “(1) DEFINITIONS.—In this subsection:

13 “(A) DEMAND BASELINE.—The term ‘de-  
14 mand baseline’ means the baseline determined  
15 by the Secretary for an appropriate period pre-  
16 ceeding the implementation of an energy effi-  
17 ciency resource program.

18 “(B) ENERGY EFFICIENCY RESOURCE PRO-  
19 GRAMS.—The term ‘energy efficiency resource  
20 program’ means an energy efficiency or other  
21 demand reduction program that is designed to  
22 reduce annual gas consumption or peak demand  
23 of consumers served by a gas utility by a per-  
24 centage of the demand baseline of the utility  
25 that is equal to not less than 0.75 percent of

1 the number of years during which the program  
2 is in effect.

3 “(2) PUBLIC HEARINGS; DETERMINATIONS.—

4 “(A) As soon as practicable after the date  
5 of enactment of this subsection, but not later  
6 than 3 years after that date, each State regu-  
7 latory authority (with respect to each gas utility  
8 over which the State has ratemaking authority)  
9 and each nonregulated gas utility shall, after  
10 notice, conduct a public hearing on the benefits  
11 and feasibility of implementing an energy effi-  
12 ciency resource program.

13 “(B) A State regulatory authority or non-  
14 regulated utility shall implement an energy effi-  
15 ciency resource program if, on the basis of a  
16 hearing under subparagraph (A), the State reg-  
17 ulatory authority or nonregulated utility deter-  
18 mines that the program would—

19 “(i) benefit end-use customers;

20 “(ii) be cost-effective based on total  
21 resource cost;

22 “(iii) serve the public welfare; and

23 “(iv) be feasible to implement.

24 “(3) IMPLEMENTATION.—

1           “(A) STATE REGULATORY AUTHORITIES.—

2           If a State regulatory authority makes a deter-  
3           mination under paragraph (2)(B), the State  
4           regulatory authority shall—

5                   “(i) require each gas utility over  
6                   which the State has ratemaking authority  
7                   to implement an energy efficiency resource  
8                   program; and

9                   “(ii) allow such a utility to recover  
10                  any expenditures incurred by the utility in  
11                  implementing the energy efficiency re-  
12                  source program.

13           “(B) NONREGULATED GAS UTILITIES.—If  
14           a nonregulated gas utility makes a determina-  
15           tion under paragraph (2)(B), the utility shall  
16           implement an energy efficiency resource pro-  
17           gram.

18           “(4) UPDATING REGULATIONS.—A State regu-  
19           latory authority or nonregulated utility may update  
20           periodically a determination under paragraph (2)(B)  
21           to determine whether an energy efficiency resource  
22           program should be—

23                   “(A) continued;

24                   “(B) modified; or

25                   “(C) terminated.

1           “(5) EXCEPTION.—Paragraph (2) shall not  
 2           apply to a State regulatory authority (or any non-  
 3           regulated gas utility operating in the State) that  
 4           demonstrates to the Secretary that an energy effi-  
 5           ciency resource program is in effect in the State.”.

## 6           **TITLE V—TAX INCENTIVES**

### 7           **SEC. 500. AMENDMENT OF 1986 CODE.**

8           Except as otherwise expressly provided, whenever in  
 9           this title an amendment or repeal is expressed in terms  
 10          of an amendment to, or repeal of, a section or other provi-  
 11          sion, the reference shall be considered to be made to a  
 12          section or other provision of the Internal Revenue Code  
 13          of 1986.

## 14           **Subtitle A—Buildings and** 15           **Equipment Incentives**

### 16           **SEC. 501. CREDIT FOR CONSTRUCTION OF NEW ENERGY EF-** 17           **FICIENT HOMES.**

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

#### 22           **“SEC. 45J. NEW ENERGY EFFICIENT HOME CREDIT.**

23          “(a) IN GENERAL.—For purposes of section 38, in  
 24          the case of an eligible contractor with respect to a quali-  
 25          fied new energy efficient home, the credit determined

1 under this section for the taxable year with respect to such  
2 home is an amount equal to the aggregate adjusted bases  
3 of all energy efficient property installed in such home dur-  
4 ing construction of such home.

5 “(b) LIMITATIONS.—

6 “(1) MAXIMUM CREDIT.—

7 “(A) IN GENERAL.—The credit allowed by  
8 this section with respect to a dwelling unit shall  
9 not exceed—

10 “(i) in the case of a dwelling unit de-  
11 scribed in clause (i) or (iii) of subsection  
12 (c)(3)(C), \$1,000, and

13 “(ii) in the case of a dwelling unit de-  
14 scribed in clause (ii) or (iv) of subsection  
15 (c)(3)(C), \$2,000.

16 “(B) PRIOR CREDIT AMOUNTS ON SAME  
17 DWELLING UNIT TAKEN INTO ACCOUNT.—If a  
18 credit was allowed under subsection (a) with re-  
19 spect to a dwelling unit in 1 or more prior tax-  
20 able years, the amount of the credit otherwise  
21 allowable for the taxable year with respect to  
22 such dwelling unit shall be reduced by the sum  
23 of the credits allowed under subsection (a) with  
24 respect to the dwelling unit for all prior taxable  
25 years.

1           “(2) COORDINATION WITH CERTAIN CREDITS.—

2           For purposes of this section—

3                   “(A) the basis of any property referred to  
4                   in subsection (a) shall be reduced by that por-  
5                   tion of the basis of any property which is attrib-  
6                   utable to qualified rehabilitation expenditures  
7                   (as defined in section 47(c)(2)) or to the energy  
8                   percentage of energy property (as determined  
9                   under section 48(a)), and

10                   “(B) expenditures taken into account  
11                   under section 47 or 48(a) shall not be taken  
12                   into account under this section.

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

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

16                           “(A) the person who constructed the quali-  
17                           fied new energy efficient home, or

18                           “(B) in the case of a qualified new energy  
19                           efficient home which is a manufactured home,  
20                           the manufactured home producer of such home.

21           If more than 1 person is described in subparagraph  
22           (A) or (B) with respect to any qualified new energy  
23           efficient home, such term means the person des-  
24           ignated as such by the owner of such home.

1           “(2) ENERGY EFFICIENT PROPERTY.—The  
2 term ‘energy efficient property’ means any energy  
3 efficient building envelope component, and any en-  
4 ergy efficient heating or cooling equipment or sys-  
5 tem, which can, individually or in combination with  
6 other components, result in a dwelling unit meeting  
7 the requirements of this section.

8           “(3) QUALIFIED NEW ENERGY EFFICIENT  
9 HOME.—The term ‘qualified new energy efficient  
10 home’ means a dwelling unit—

11                   “(A) located in the United States,

12                   “(B) the construction of which is substan-  
13 tially completed after the date of the enactment  
14 of this section, and

15                   “(C) which is—

16                           “(i) certified to have a level of annual  
17 heating and cooling energy consumption  
18 which is at least 30 percent below the an-  
19 nual level of heating and cooling energy  
20 consumption of a comparable dwelling unit  
21 constructed in accordance with the stand-  
22 ards of chapter 4 of the 2003 International  
23 Energy Conservation Code, as such Code  
24 (including supplements) is in effect on the  
25 date of the enactment of this section, and

1 for which the heating and cooling equip-  
2 ment efficiencies correspond to the min-  
3 imum allowed under the regulations estab-  
4 lished by the Department of Energy pursu-  
5 ant to the National Appliance Energy Con-  
6 servation Act of 1987 and in effect at the  
7 time of construction, and to have building  
8 envelope component improvements account  
9 for at least  $\frac{1}{3}$  of such 30 percent,

10 “(ii) certified to have a level of annual  
11 heating and cooling energy consumption  
12 which is at least 50 percent below such an-  
13 nual level and to have building envelope  
14 component improvements account for at  
15 least  $\frac{1}{5}$  of such 50 percent,

16 “(iii) a manufactured home which  
17 meets the requirements of clause (i) and  
18 which conforms to Federal Manufactured  
19 Home Construction and Safety Standards  
20 (section 3280 of title 24, Code of Federal  
21 Regulations), or

22 “(iv) a manufactured home which  
23 meets the requirements of clause (ii) and  
24 which conforms to Federal Manufactured  
25 Home Construction and Safety Standards

1 (section 3280 of title 24, Code of Federal  
2 Regulations).

3 “(4) CONSTRUCTION.—The term ‘construction’  
4 includes substantial reconstruction and rehabilita-  
5 tion.

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

10 “(6) BUILDING ENVELOPE COMPONENT.—The  
11 term ‘building envelope component’ means—

12 “(A) any sealant or insulation material or  
13 system which is specifically and primarily de-  
14 signed to reduce the heat loss or gain of a  
15 dwelling unit when installed in or on such  
16 dwelling unit,

17 “(B) exterior windows (including sky-  
18 lights),

19 “(C) exterior doors, and

20 “(D) any metal roof installed on a dwelling  
21 unit, but only if such roof has appropriate pig-  
22 mented coatings which—

23 “(i) are specifically and primarily de-  
24 signed to reduce the heat gain of such  
25 dwelling unit, and

1                   “(ii) meet the Energy Star program  
2                   requirements.

3           “(d) CERTIFICATION.—

4                   “(1) METHOD OF CERTIFICATION.—A certifi-  
5                   cation described in subsection (c)(3)(C) shall be de-  
6                   termined in accordance with guidance prescribed by  
7                   the Secretary, after consultation with the Secretary  
8                   of Energy. Such guidance shall specify procedures  
9                   and methods for calculating energy and cost savings.

10                   “(2) FORM.—A certification described in sub-  
11                   section (c)(3)(C) shall be made in writing in a man-  
12                   ner which specifies in readily verifiable fashion the  
13                   energy efficient building envelope components and  
14                   energy efficient heating or cooling equipment in-  
15                   stalled and their respective rated energy efficiency  
16                   performance.

17                   “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
18                   title, if a credit is determined under this section for any  
19                   expenditure with respect to any property, the increase in  
20                   the basis of such property which would (but for this sub-  
21                   section) result from such expenditure shall be reduced by  
22                   the amount of the credit so determined.

23                   “(f) SPECIAL RULE WITH RESPECT TO BUILDINGS  
24                   WITH ENERGY EFFICIENT PROPERTY.—In any case in  
25                   which a deduction under section 200 or a credit under sec-

1 tion 25C has been allowed with respect to property in con-  
2 nection with a dwelling unit, the level of annual heating  
3 and cooling energy consumption of the comparable dwell-  
4 ing unit referred to in clauses (i) and (ii) of subsection  
5 (c)(3)(C) shall be determined assuming such comparable  
6 dwelling unit contains the property for which such deduc-  
7 tion or credit has been allowed.

8 “(g) APPLICATION OF SECTION.—

9 “(1) 50 PERCENT HOMES.—In the case of any  
10 dwelling unit described in clause (ii) or (iv) of sub-  
11 section (c)(3)(C), subsection (a) shall apply to quali-  
12 fied new energy efficient homes acquired during the  
13 period beginning on the date of the enactment of  
14 this section, and ending on December 31, 2009.

15 “(2) 30 PERCENT HOMES.—In the case of any  
16 dwelling unit described in clause (i) or (iii) of sub-  
17 section (c)(3)(C), subsection (a) shall apply to quali-  
18 fied new energy efficient homes acquired during the  
19 period beginning on the date of the enactment of  
20 this section, and ending on December 31, 2007.”.

21 (b) CREDIT MADE PART OF GENERAL BUSINESS  
22 CREDIT.—Section 38(b) (relating to current year business  
23 credit) is amended by striking “plus” at the end of para-  
24 graph (18), by striking the period at the end of paragraph

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

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

5 (c) BASIS ADJUSTMENT.—Subsection (a) of section  
6 1016, as amended by section 101, is amended by striking  
7 “and” at the end of paragraph (30), by striking the period  
8 at the end of paragraph (31) and inserting “, and”, and  
9 by adding at the end the following new paragraph:

10 “(32) to the extent provided in section 45J(e),  
11 in the case of amounts with respect to which a credit  
12 has been allowed under section 45J.”.

13 (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
14 CREDITS.—Section 196(c) (defining qualified business  
15 credits) is amended by striking “and” at the end of para-  
16 graph (11), by striking the period at the end of paragraph  
17 (12) and inserting “, and”, and by adding after paragraph  
18 (12) the following new paragraph:

19 “(13) the new energy efficient home credit de-  
20 termined under section 45J(a).”.

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

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

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

4 **SEC. 502. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
5 **MENTS TO EXISTING HOMES.**

6 (a) ALLOWANCE OF CREDIT.—

7 (1) IN GENERAL.—Subpart A of part IV of sub-  
8 chapter A of chapter 1 (relating to nonrefundable  
9 personal credits) is amended by inserting after sec-  
10 tion 25B the following new section:

11 **“SEC. 25C. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
12 **ING HOMES.**

13 “(a) ALLOWANCE OF CREDIT.—

14 “(1) IN GENERAL.—In the case of an indi-  
15 vidual, there shall be allowed as a credit against the  
16 tax imposed by this chapter for the taxable year an  
17 amount equal to so much of the credit amount speci-  
18 fied in paragraph (2) which does not exceed the ex-  
19 penditures made by the taxpayer in connection with  
20 the construction, reconstruction, erection, or reha-  
21 bilitation of a dwelling unit of the taxpayer which re-  
22 sults in the unit being a highly energy-efficient prin-  
23 cipal residence. Such expenditures may include labor  
24 costs properly allocable to the onsite preparation, as-  
25 sembly, or original installation of such property.

1           “(2) CREDIT AMOUNT.—The credit amount  
2 with respect to a highly energy-efficient principal  
3 residence is—

4                   “(A) \$2,000 in the case of a percentage re-  
5 duction of 50 percent as determined under sub-  
6 section (b)(1)(C), and

7                   “(B) \$4,000 times the percentage reduc-  
8 tion in the case of a percentage reduction of  
9 less than 50 percent as determined under sub-  
10 section (b)(1)(C).

11           “(b) HIGHLY ENERGY-EFFICIENT PRINCIPAL RESI-  
12 DENCE.—

13                   “(1) IN GENERAL.—Property is a highly en-  
14 ergy-efficient principal residence if—

15                           “(A) such property is located in the United  
16 States,

17                           “(B) the property is used as a principal  
18 residence, and

19                           “(C) the projected heating and cooling en-  
20 ergy usage of such property, measured in terms  
21 of average annual energy cost to taxpayer, is  
22 reduced by a percentage certified according to  
23 paragraph (3) in comparison to the energy cost  
24 of such property if expenditures made by the

1 taxpayer with respect to energy efficient im-  
2 provements to such property were not made.

3 “(2) PRINCIPAL RESIDENCE.—

4 “(A) IN GENERAL.—The term ‘principal  
5 residence’ has the same meaning as when used  
6 in section 121, except that—

7 “(i) no ownership requirement shall  
8 be imposed, and

9 “(ii) the period for which a building is  
10 treated as used as a principal residence  
11 shall also include the 60-day period ending  
12 on the 1st day on which it would (but for  
13 this paragraph) first be treated as used as  
14 a principal residence.

15 “(B) MANUFACTURED HOUSING.—The  
16 term ‘residence’ shall include a dwelling unit  
17 which is a manufactured home conforming to  
18 Federal Manufactured Home Construction and  
19 Safety Standards (24 C.F.R. 3280).

20 “(3) CERTIFICATION PROCEDURES.—

21 “(A) IN GENERAL.—For purposes of para-  
22 graph (1)(C), energy usage shall be dem-  
23 onstrated by performance-based compliance.

24 “(B) PERFORMANCE-BASED COMPLI-  
25 ANCE.—Performance-based compliance shall be

1 demonstrated if the percent energy cost savings  
2 for heating and cooling is met with respect to  
3 a dwelling unit when compared to the original  
4 condition of the dwelling unit.

5 “(C) COMPUTER SOFTWARE.—Computer  
6 software shall be used in support of perform-  
7 ance-based compliance under subparagraph (B)  
8 and such software shall meet all of the proce-  
9 dures and methods for calculating energy sav-  
10 ings reductions which are promulgated by the  
11 Secretary of Energy. Such regulations on the  
12 specifications for software and verification pro-  
13 tocols shall be based on the 2005 California  
14 Residential Alternative Calculation Method Ap-  
15 proval Manual.

16 “(D) CALCULATION REQUIREMENTS.—In  
17 calculating tradeoffs and energy performance,  
18 the regulations shall prescribe the costs per unit  
19 of energy and power, such as kilowatt hour, kil-  
20 owatt, gallon of fuel oil, and cubic foot or Btu  
21 of natural gas, which may be dependent on time  
22 of usage. If a State has developed annual en-  
23 ergy usage and cost calculation procedures  
24 based on time of usage costs for use in the per-  
25 formance standards of the State’s building en-

1           energy code before the effective date of this sec-  
2           tion, the State may use those annual energy  
3           usage and cost calculation procedures in lieu of  
4           those adopted by the Secretary.

5           “(E) APPROVAL OF SOFTWARE SUBMIS-  
6           SIONS.—The Secretary shall approve software  
7           submissions which comply with the calculation  
8           requirements of subparagraph (C).

9           “(F) PROCEDURES FOR INSPECTION AND  
10          TESTING OF DWELLING UNITS.—The Secretary  
11          shall ensure that procedures for the inspection  
12          and testing for compliance comply with the cal-  
13          culation requirements under subparagraph (C)  
14          and subsection (c)(2).

15          “(c) SPECIAL RULES.—For purposes of this sec-  
16          tion—

17          “(1) DETERMINATIONS OF COMPLIANCE.—A  
18          determination of compliance made for the purposes  
19          of this section shall be filed with the Secretary with-  
20          in 1 year of the date of such determination and shall  
21          include the TIN of the certifier, the address of the  
22          building in compliance, and the identity of the per-  
23          son for whom such determination was performed.  
24          Determinations of compliance filed with the Sec-

1       retary shall be available for inspection by the Sec-  
2       retary of Energy.

3               “(2) COMPLIANCE.—

4                       “(A) IN GENERAL.—The Secretary, after  
5       consultation with the Secretary of Energy shall  
6       establish requirements for certification and  
7       compliance procedures after examining the re-  
8       quirements for energy consultants and home en-  
9       ergy ratings providers specified by the Mort-  
10      gage Industry National Home Energy Rating  
11      Standards.

12                      “(B) INDIVIDUALS QUALIFIED TO DETER-  
13      MINE COMPLIANCE.—The determination of  
14      compliance may be provided by a local building  
15      regulatory authority, a utility, a manufactured  
16      home production inspection primary inspection  
17      agency (IPIA), a home inspector, or an accred-  
18      ited home energy rating system provider. All  
19      providers shall be accredited, or otherwise au-  
20      thorized to use approved energy performance  
21      measurement methods, by the Residential En-  
22      ergy Services Network (RESNET).

23               “(3) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
24      CUPANCY.—In the case of any dwelling unit which if  
25      jointly occupied and used during any calendar year

1 as a principal residence by 2 or more individuals the  
2 following rules shall apply:

3 “(A) The amount of the credit allowable  
4 under subsection (a) by reason of expenditures  
5 made during such calendar year by any of such  
6 individuals with respect to such dwelling unit  
7 shall be determined by treating all of such indi-  
8 viduals as 1 taxpayer whose taxable year is  
9 such calendar year.

10 “(B) There shall be allowable with respect  
11 to such expenditures to each of such individ-  
12 uals, a credit under subsection (a) for the tax-  
13 able year in which such calendar year ends in  
14 an amount which bears the same ratio to the  
15 amount determined under subparagraph (A) as  
16 the amount of such expenditures made by such  
17 individual during such calendar year bears to  
18 the aggregate of such expenditures made by all  
19 of such individuals during such calendar year.

20 “(4) TENANT-STOCKHOLDER IN COOPERATIVE  
21 HOUSING CORPORATION.—In the case of an indi-  
22 vidual who is a tenant-stockholder (as defined in sec-  
23 tion 216) in a cooperative housing corporation (as  
24 defined in such section), such individual shall be  
25 treated as having made his tenant-stockholder’s pro-

1       portionate share (as defined in section 216(b)(3)) of  
2       any expenditures of such corporation and such credit  
3       shall be allocated pro rata to such individual.

4           “(5) CONDOMINIUMS.—

5           “(A) IN GENERAL.—In the case of an indi-  
6       vidual who is a member of a condominium man-  
7       agement association with respect to a condo-  
8       minium which he owns, such individual shall be  
9       treated as having made his proportionate share  
10      of any expenditures of such association and any  
11      credit shall be allocated appropriately.

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

20          “(6) JOINT OWNERSHIP OF ENERGY ITEMS.—

21          “(A) IN GENERAL.—Any expenditure oth-  
22      erwise qualifying as an expenditure under this  
23      section shall not be treated as failing to so  
24      qualify merely because such expenditure was  
25      made with respect to 2 or more dwelling units.

1           “(B) LIMITS APPLIED SEPARATELY.—In  
2           the case of any expenditure described in sub-  
3           paragraph (A), the amount of the credit allow-  
4           able under subsection (a) shall (subject to para-  
5           graph (1)) be computed separately with respect  
6           to the amount of the expenditure made for each  
7           dwelling unit.

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

13          “(8) COORDINATION WITH OTHER CREDITS.—  
14          Property which would, but for this paragraph, be eli-  
15          gible for credit under more than one provision of  
16          this section shall be eligible only under one such pro-  
17          vision, the provision specified by the taxpayer.

18          “(9) YEAR CREDIT ALLOWED.—The credit  
19          under subsection (a)(2) shall be allowed in the tax-  
20          able year in which the percentage reduction with re-  
21          spect to the principal residence is certified.

22          “(10) WHEN EXPENDITURE MADE; AMOUNT OF  
23          EXPENDITURE.—

24                  “(A) IN GENERAL.—Except as provided in  
25                  subparagraph (B), an expenditure with respect

1 to an item shall be treated as made when the  
2 original installation of the item is completed.

3 “(B) EXPENDITURES PART OF BUILDING  
4 CONSTRUCTION.—In the case of an expenditure  
5 in connection with the construction of a struc-  
6 ture, such expenditure shall be treated as made  
7 when the original use of the constructed struc-  
8 ture by the taxpayer begins.

9 “(11) PROPERTY FINANCED BY SUBSIDIZED  
10 ENERGY FINANCING.—

11 “(A) REDUCTION OF EXPENDITURES.—

12 “(i) IN GENERAL.—Except as pro-  
13 vided in subparagraph (C), for purposes of  
14 determining the amount of expenditures  
15 made by any individual with respect to any  
16 dwelling unit, there shall not be taken into  
17 account expenditures which are made from  
18 subsidized energy financing.

19 “(ii) SUBSIDIZED ENERGY FINANC-  
20 ING.—For purposes of clause (i), the term  
21 ‘subsidized energy financing’ has the same  
22 meaning given such term in section  
23 48(a)(4)(C).

24 “(B) DOLLAR LIMITS REDUCED.—The dol-  
25 lar amounts in the table contained in subsection

1 (b)(3) with respect to each property purchased  
2 for such dwelling unit for any taxable year of  
3 such taxpayer shall be reduced proportionately  
4 by an amount equal to the sum of—

5 “(i) the amount of the expenditures  
6 made by the taxpayer during such taxable  
7 year with respect to such dwelling unit and  
8 not taken into account by reason of sub-  
9 paragraph (A), and

10 “(ii) the amount of any Federal,  
11 State, or local grant received by the tax-  
12 payer during such taxable year which is  
13 used to make residential energy property  
14 expenditures with respect to the dwelling  
15 unit and is not included in the gross in-  
16 come of such taxpayer.

17 “(C) EXCEPTION FOR STATE PROGRAMS.—

18 Subparagraphs (A) and (B) shall not apply to  
19 expenditures made with respect to property for  
20 which the taxpayer has received a loan, State  
21 tax credit, or grant under any State energy pro-  
22 gram.

23 “(d) BASIS ADJUSTMENTS.—For purposes of this  
24 subtitle, if a credit is allowed under this section for any  
25 expenditure with respect to any property, the increase in

1 the basis of such property which would (but for this sub-  
2 section) result from such expenditure shall be reduced by  
3 the amount of the credit so allowed.

4 “(e) REGULATIONS.—The Secretary shall promulgate  
5 such regulations as necessary to take into account new  
6 technologies regarding energy efficiency and renewable en-  
7 ergy for purposes of determining energy efficiency and  
8 savings under this section.

9 “(f) TERMINATION.—This section shall not apply  
10 with respect to any energy property placed in service after  
11 December 31, 2009.”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subsection (a) of section 1016, as  
14 amended by section 601, is amended by striking  
15 “and” at the end of paragraph (31), by striking  
16 the period at the end of paragraph (32) and in-  
17 serting “, and”, and by adding at the end the  
18 following new paragraph:

19 “(33) to the extent provided in section 25C(d),  
20 in the case of amounts with respect to which a credit  
21 has been allowed under section 25C.”.

22 (B) The table of sections for subpart A of  
23 part IV of subchapter A of chapter 1 is amend-  
24 ed by inserting after the item relating to section  
25 25B the following new item:

“25C. Nonbusiness energy property.”.



1           “(2) the credits allowed under section 25C to  
2           the taxpayer with respect to the dwelling for such  
3           taxable year and all preceding taxable years.

4           “(c) CARRYFORWARD OF UNUSED CREDIT.—If the  
5           credit allowable under subsection (a) exceeds the limita-  
6           tion imposed by section 26(a) for such taxable year re-  
7           duced by the sum of the credits allowable under this sub-  
8           part (other than this section) for such taxable year, such  
9           excess shall be carried to the succeeding taxable year and  
10          added to the credit allowable under subsection (a) for such  
11          succeeding taxable year.

12          “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-  
13          MENTS.—For purposes of this section, the term ‘qualified  
14          energy efficiency improvements’ means any energy effi-  
15          cient building envelope component which is certified to  
16          meet or exceed the latest prescriptive criteria for such  
17          component in the 2003 International Energy Conservation  
18          Code (with supplements) as in effect on the date of the  
19          enactment of this subsection, if—

20                 “(1) such component is installed in or on a  
21                 dwelling which—

22                         “(A) is located in the United States,

23                         “(B) has not been treated as a qualified  
24                         new energy efficient home for purposes of any  
25                         credit allowed under section 45J, and

1           “(C) is owned and used by the taxpayer as  
2           the taxpayer’s principal residence (within the  
3           meaning of section 121),

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

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

8           “(e) CERTIFICATION.—

9           “(1) METHOD OF CERTIFICATION.—The certifi-  
10          cation described in subsection (d) for any component  
11          described in such subsection shall be determined on  
12          the basis of applicable energy efficiency ratings (in-  
13          cluding product labeling requirements) for affected  
14          building envelope components.

15          “(2) PROVIDER.—A certification described in  
16          subsection (d) shall be provided by a third party,  
17          such as a local building regulatory authority, a util-  
18          ity, a manufactured home primary inspection agen-  
19          cy, or a home energy rating organization.

20          “(3) FORM.—A certification described in sub-  
21          section (d) shall be made in writing on forms which  
22          specify in readily inspectable fashion the energy effi-  
23          cient components and their respective efficiency rat-  
24          ings, and which include a permanent label affixed to  
25          the electrical distribution panel of the dwelling.

1       “(f) DEFINITIONS AND SPECIAL RULES.—For pur-  
2 poses of this section—

3               “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
4 CUPANCY.—In the case of any dwelling unit which is  
5 jointly occupied and used during any calendar year  
6 as a residence by 2 or more individuals the following  
7 rules shall apply:

8                       “(A) The amount of the credit allowable  
9 under subsection (a) by reason of expenditures  
10 for the qualified energy efficiency improvements  
11 made during such calendar year by any of such  
12 individuals with respect to such dwelling unit  
13 shall be determined by treating all of such indi-  
14 viduals as 1 taxpayer whose taxable year is  
15 such calendar year.

16                       “(B) There shall be allowable, with respect  
17 to such expenditures to each of such individ-  
18 uals, a credit under subsection (a) for the tax-  
19 able year in which such calendar year ends in  
20 an amount which bears the same ratio to the  
21 amount determined under subparagraph (A) as  
22 the amount of such expenditures made by such  
23 individual during such calendar year bears to  
24 the aggregate of such expenditures made by all  
25 of such individuals during such calendar year.

1           “(2) TENANT-STOCKHOLDER IN COOPERATIVE  
2 HOUSING CORPORATION.—In the case of an indi-  
3 vidual who is a tenant-stockholder (as defined in sec-  
4 tion 216) in a cooperative housing corporation (as  
5 defined in such section), such individual shall be  
6 treated as having paid his tenant-stockholder’s pro-  
7 portionate share (as defined in section 216(b)(3)) of  
8 the cost of qualified energy efficiency improvements  
9 made by such corporation.

10           “(3) CONDOMINIUMS.—

11           “(A) IN GENERAL.—In the case of an indi-  
12 vidual who is a member of a condominium man-  
13 agement association with respect to a condo-  
14 minium which the individual owns, such indi-  
15 vidual shall be treated as having paid the indi-  
16 vidual’s proportionate share of the cost of quali-  
17 fied energy efficiency improvements made by  
18 such association.

19           “(B) CONDOMINIUM MANAGEMENT ASSO-  
20 CIATION.—For purposes of this paragraph, the  
21 term ‘condominium management association’  
22 means an organization which meets the require-  
23 ments of paragraph (1) of section 528(c) (other  
24 than subparagraph (E) thereof) with respect to

1 a condominium project substantially all of the  
2 units of which are used as residences.

3 “(4) BUILDING ENVELOPE COMPONENT.—The  
4 term ‘building envelope component’ means—

5 “(A) any sealant or insulation material or  
6 system which is specifically and primarily de-  
7 signed to reduce the heat loss or gain or a  
8 dwelling when installed in or on such dwelling,

9 “(B) exterior windows (including sky-  
10 lights), and

11 “(C) exterior doors.

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

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

23 “(h) TERMINATION.—Subsection (a) shall not apply  
24 to qualified energy efficiency improvements installed after  
25 December 31, 2006.”.

## 1 (2) CONFORMING AMENDMENTS.—

2 (A) Section 1016(a), as amended by this  
3 Act, is amended by striking “and” at the end  
4 of paragraph (32), by striking the period at the  
5 end of paragraph (33) and inserting “; and”,  
6 and by adding at the end the following new  
7 paragraph:

8 “(34) to the extent provided in section 25D(g),  
9 in the case of amounts with respect to which a credit  
10 has been allowed under section 25D.”.

11 (B) The table of sections for subpart A of  
12 part IV of subchapter A of chapter 1, as  
13 amended by this Act, is amended by inserting  
14 after the item relating to section 25C the fol-  
15 lowing new item:

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

## 16 (3) EFFECTIVE DATES.—

17 (A) IN GENERAL.—Except as provided by  
18 subparagraph (B), the amendments made by  
19 this subsection shall apply to property installed  
20 after December 31, 2005, in taxable years end-  
21 ing after such date.

22 (B) PARAGRAPH (2).—The amendments  
23 made by paragraph (2) shall apply to taxable  
24 years ending after December 31, 2005.

1 **SEC. 503. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**  
2 **DUCTION.**

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

7 **“SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS**  
8 **DEDUCTION.**

9 “(a) IN GENERAL.—There shall be allowed as a de-  
10 duction an amount equal to the cost of energy efficient  
11 commercial building property placed in service during the  
12 taxable year.

13 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The de-  
14 duction under subsection (a) with respect to any building  
15 for the taxable year and all prior taxable years shall not  
16 exceed an amount equal to the product of—

17 “(1) \$2.25, and

18 “(2) the square footage of the building.

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

20 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-  
21 ING PROPERTY.—The term ‘energy efficient commer-  
22 cial building property’ means property—

23 “(A) which is installed on or in any build-  
24 ing located in the United States,

25 “(B) which is installed as part of—

26 “(i) the interior lighting systems,

1                   “(ii) the heating, cooling, ventilation,  
2                   and hot water systems, or

3                   “(iii) the building envelope, and

4                   “(C) which is certified in accordance with  
5                   subsection (d)(6) as being installed as part of  
6                   a plan designed to reduce the total annual en-  
7                   ergy and power costs with respect to the inte-  
8                   rior lighting systems, heating, cooling, ventila-  
9                   tion, and hot water systems of the building by  
10                  50 percent or more in comparison to a ref-  
11                  erence building which meets the minimum re-  
12                  quirements of Standard 90.1–2001 using meth-  
13                  ods of calculation under subsection (d)(2).

14                 A building described in subparagraph (A) may in-  
15                 clude any residential rental property, including any  
16                 low-rise multifamily structure or single family hous-  
17                 ing property which is not within the scope of Stand-  
18                 ard 90.1–2001, but shall not include any qualified  
19                 new energy efficient home (within the meaning of  
20                 section 45J(d)(3)) for which a credit under section  
21                 45J has been allowed.

22                 “(2) STANDARD 90.1–2001.—The term ‘Stand-  
23                 ard 90.1–2001’ means Standard 90.1–2001 of the  
24                 American Society of Heating, Refrigerating, and Air  
25                 Conditioning Engineers and the Illuminating Engi-

1 neering Society of North America (as in effect on  
2 April 2, 2003).

3 “(d) SPECIAL RULES.—

4 “(1) PARTIAL ALLOWANCE.—

5 “(A) IN GENERAL.—Except as provided in  
6 subsection (f), if—

7 “(i) the requirement of subsection  
8 (c)(1)(C) is not met, but

9 “(ii) there is a certification in accord-  
10 ance with paragraph (6) that any system  
11 referred to in subsection (c)(1)(B) satisfies  
12 the energy-savings targets established by  
13 the Secretary under subparagraph (B)  
14 with respect to such system, then the re-  
15 quirement of subsection (c)(1)(C) shall be  
16 treated as met with respect to such system,  
17 and the deduction under subsection (a)  
18 shall be allowed with respect to energy effi-  
19 cient commercial building property in-  
20 stalled as part of such system and as part  
21 of a plan to meet such targets, except that  
22 subsection (b) shall be applied to such  
23 property by substituting ‘\$.75’ for ‘\$2.25’.

24 “(B) REGULATIONS.—The Secretary, after  
25 consultation with the Secretary of Energy, shall

1           establish a target for each system described in  
2           subsection (c)(1)(B) which, if such targets were  
3           met for all such systems, the building would  
4           meet the requirements of subsection (c)(1)(C).

5           “(2) METHODS OF CALCULATION.—The Sec-  
6           retary, after consultation with the Secretary of En-  
7           ergy, shall promulgate regulations which describe in  
8           detail methods for calculating and verifying energy  
9           and power consumption and cost, based on the pro-  
10          visions of the 2005 California Nonresidential Alter-  
11          native Calculation Method Approval Manual or, in  
12          the case of residential property, the 2005 California  
13          Residential Alternative Calculation Method Approval  
14          Manual. These regulations shall meet the following  
15          requirements:

16                 “(A) In calculating tradeoffs and energy  
17                 performance, the regulations shall prescribe the  
18                 costs per unit of energy and power, such as kil-  
19                 owatt hour, kilowatt, gallon of fuel oil, and  
20                 cubic foot or Btu of natural gas, which may be  
21                 dependent on time of usage. If a State has de-  
22                 veloped annual energy usage and cost calcula-  
23                 tion procedures based on time of usage costs for  
24                 use in the performance standards of the State’s  
25                 building energy code before the effective date of

1 this section, the State may use those annual en-  
2 ergy usage and cost calculation procedures in  
3 lieu of those adopted by the Secretary.

4 “(B) The calculation methods under this  
5 paragraph need not comply fully with section  
6 11 of Standard 90.1–2001.

7 “(C) The calculation methods shall be fuel  
8 neutral, such that the same energy efficiency  
9 features shall qualify a building for the deduc-  
10 tion under this section regardless of whether  
11 the heating source is a gas or oil furnace or an  
12 electric heat pump. The reference building for  
13 a proposed design which employs electric resist-  
14 ance heating shall be modeled as using a heat  
15 pump.

16 “(D) The calculation methods shall provide  
17 appropriate calculated energy savings for design  
18 methods and technologies not otherwise credited  
19 in either Standard 90.1–2001 or in the 2005  
20 California Nonresidential Alternative Calcula-  
21 tion Method Approval Manual, including the  
22 following:

23 “(i) Natural ventilation.

24 “(ii) Evaporative cooling.

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

4           “(iv) Daylighting.

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

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

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

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

20          “(ix) On-site generation of electricity,  
21          including combined heat and power sys-  
22          tems, fuel cells, and renewable energy gen-  
23          eration such as solar energy.

24          “(x) Wiring with lower energy losses  
25          than wiring satisfying Standard 90.1–2001

1 requirements for building power distribu-  
2 tion systems.

3 “(3) COMPUTER SOFTWARE.—

4 “(A) IN GENERAL.—Any calculation under  
5 paragraph (2) shall be prepared by qualified  
6 computer software.

7 “(B) QUALIFIED COMPUTER SOFTWARE.—  
8 For purposes of this paragraph, the term  
9 ‘qualified computer software’ means software—

10 “(i) for which the software designer  
11 has certified that the software meets all  
12 procedures and detailed methods for calcu-  
13 lating energy and power consumption and  
14 costs as required by the Secretary,

15 “(ii) which provides such forms as re-  
16 quired to be filed by the Secretary in con-  
17 nection with energy efficiency of property  
18 and the deduction allowed under this sec-  
19 tion, and

20 “(iii) which provides a notice form  
21 which documents the energy efficiency fea-  
22 tures of the building and its projected an-  
23 nual energy costs.

24 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC  
25 PROPERTY.—In the case of energy efficient commer-

1       cial building property installed on or in public prop-  
2       erty, the Secretary shall promulgate a regulation to  
3       allow the allocation of the deduction to the person  
4       primarily responsible for designing the property in  
5       lieu of the public entity which is the owner of such  
6       property. Such person shall be treated as the tax-  
7       payer for purposes of this section.

8               “(5) NOTICE TO OWNER.—Each certification  
9       required under this section shall include an expla-  
10      nation to the building owner regarding the energy  
11      efficiency features of the building and its projected  
12      annual energy costs as provided in the notice under  
13      paragraph (3)(B)(iii).

14              “(6) CERTIFICATION.—

15                   “(A) IN GENERAL.—The Secretary shall  
16      prescribe the manner and method for the mak-  
17      ing of certifications under this section.

18                   “(B) PROCEDURES.—The Secretary shall  
19      include as part of the certification process pro-  
20      cedures for inspection and testing by qualified  
21      individuals described in subparagraph (C) to  
22      ensure compliance of buildings with energy-sav-  
23      ings plans and targets. Such procedures shall  
24      be comparable, given the difference between  
25      commercial and residential buildings, to the re-

1            requirements in the Mortgage Industry National  
2            Accreditation Procedures for Home Energy  
3            Rating Systems.

4            “(C) QUALIFIED INDIVIDUALS.—Individ-  
5            uals qualified to determine compliance shall be  
6            only those individuals who are recognized by an  
7            organization certified by the Secretary for such  
8            purposes.

9            “(e) BASIS REDUCTION.—For purposes of this sub-  
10          title, if a deduction is allowed under this section with re-  
11          spect to any energy efficient commercial building property,  
12          the basis of such property shall be reduced by the amount  
13          of the deduction so allowed.

14          “(f) INTERIM RULES FOR LIGHTING SYSTEMS.—  
15          Until such time as the Secretary issues final regulations  
16          under subsection (d)(1)(B) with respect to property which  
17          is part of a lighting system—

18                “(1) IN GENERAL.—The lighting system target  
19                under subsection (d)(1)(A)(ii) shall be a reduction in  
20                lighting power density of 25 percent (50 percent in  
21                the case of a warehouse) of the minimum require-  
22                ments in Table 9.3.1.1 or Table 9.3.1.2 (not includ-  
23                ing additional interior lighting power allowances) of  
24                Standard 90.1–2001.

1           “(2) REDUCTION IN DEDUCTION IF REDUCTION  
2 LESS THAN 40 PERCENT.—

3           “(A) IN GENERAL.—If, with respect to the  
4 lighting system of any building other than a  
5 warehouse, the reduction in lighting power den-  
6 sity of the lighting system is not at least 40  
7 percent, only the applicable percentage of the  
8 amount of deduction otherwise allowable under  
9 this section with respect to such property shall  
10 be allowed.

11           “(B) APPLICABLE PERCENTAGE.—For  
12 purposes of subparagraph (A), the applicable  
13 percentage is the number of percentage points  
14 (not greater than 100) equal to the sum of—

15           “(i) 50, and

16           “(ii) the amount which bears the same  
17 ratio to 50 as the excess of the reduction  
18 of lighting power density of the lighting  
19 system over 25 percentage points bears to  
20 15.

21           “(C) EXCEPTIONS.—This subsection shall  
22 not apply to any system—

23           “(i) the controls and circuiting of  
24 which do not comply fully with the manda-  
25 tory and prescriptive requirements of

1 Standard 90.1–2001 and which do not in-  
2 clude provision for bilevel switching in all  
3 occupancies except hotel and motel guest  
4 rooms, store rooms, restrooms, and public  
5 lobbies, or

6 “(ii) which does not meet the min-  
7 imum requirements for calculated lighting  
8 levels as set forth in the Illuminating Engi-  
9 neering Society of North America Lighting  
10 Handbook, Performance and Application,  
11 Ninth Edition, 2000.

12 “(g) COORDINATION WITH OTHER TAX BENE-  
13 FITS.—

14 “(1) NO DOUBLE BENEFIT.—No deduction  
15 shall be allowed under subsection (a) with respect to  
16 any building for which a credit under section 45J  
17 has been allowed.

18 “(2) SPECIAL RULE WITH RESPECT TO BUILD-  
19 INGS WITH ENERGY EFFICIENT PROPERTY.—In any  
20 case in which a deduction under section 200 or a  
21 credit under section 25C has been allowed with re-  
22 spect to property in connection with a building, the  
23 annual energy and power costs of the reference  
24 building referred to in subsection (c)(1)(C) shall be  
25 determined assuming such reference building con-

1 tains the property for which such deduction or credit  
2 has been allowed.

3 “(h) REGULATIONS.—The Secretary shall promul-  
4 gate such regulations as necessary—

5 “(1) to take into account new technologies re-  
6 garding energy efficiency and renewable energy for  
7 purposes of determining energy efficiency and sav-  
8 ings under this section, and

9 “(2) to provide for a recapture of the deduction  
10 allowed under this section if the plan described in  
11 subsection (e)(1)(C) or (d)(1)(A) is not fully imple-  
12 mented.

13 “(i) TERMINATION.—This section shall not apply  
14 with respect to property placed in service after December  
15 31, 2010.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 1016(a) is amended by striking  
18 “and” at the end of paragraph (33), by striking the  
19 period at the end of paragraph (34) and inserting “,  
20 and”, and by adding at the end the following new  
21 paragraph:

22 “(35) to the extent provided in section  
23 179C(e).”.

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

4           (3) Section 1250(b)(3) is amended by inserting  
5           before the period at the end of the first sentence “or  
6           by section 179C”.

7           (4) Section 263(a)(1) of such Code is amended  
8           by striking “or” at the end of subparagraph (H), by  
9           striking the period at the end of subparagraph (I)  
10          and inserting “, or”, and by inserting after subpara-  
11          graph (I) the following new subparagraph:

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

14          (5) Section 312(k)(3)(B) is amended by strik-  
15          ing “section 179, 179A, or 179B” each place it ap-  
16          pears in the heading and text and inserting “section  
17          179, 179A, 179B, or 179C”.

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

          “179C. Energy efficient commercial buildings deduction.”.

21          (d) EFFECTIVE DATE.—The amendments made by  
22          this section shall apply to property placed in service after  
23          the date of the enactment of this Act in taxable years end-  
24          ing after such date.

1 **SEC. 504. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
2 **PROPERTY.**

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

7 **“SEC. 25E. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

8 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
9 dividual, there shall be allowed as a credit against the tax  
10 imposed by this chapter for the taxable year an amount  
11 equal to the sum of the qualified Tier 1 and Tier 2 energy  
12 efficient building property expenditures made by the tax-  
13 payer during such year.

14 “(b) LIMITATIONS.—

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

17 “(A) \$300 for each Tier 2 electric heat  
18 pump water heater,

19 “(B) \$300 for each Tier 2 natural gas, oil  
20 or propane furnace or hot water boiler installed  
21 in 2006 (\$250 for equipment installed in 2007,  
22 \$200 for equipment installed in 2008),

23 “(C) \$200 for each Tier 1 natural gas, oil,  
24 or propane furnace, or hot water boiler installed  
25 in 2006 (\$150 for equipment installed in 2007,  
26 \$100 for equipment installed in 2008),

1           “(D) \$300 for each Tier 2 natural gas, oil,  
2 or propane water heater,

3           “(E) \$50 for each Tier 1 natural gas, oil,  
4 or propane water heater,

5           “(F) \$50 for a Tier 1 advanced main air  
6 circulating fan which is installed in a furnace  
7 with an Annual Fuel Utilization Efficiency of  
8 less than 92 percent,

9           “(G) \$300 for each Tier 2 combination  
10 space and water heating system,

11           “(H) \$50 for each Tier 1 combination  
12 space and water heating system,

13           “(I) \$250 for each Tier 2 geothermal heat  
14 pump,

15           “(J) \$300 for each Tier 2 central air con-  
16 ditioner or central heat pump (\$200 for equip-  
17 ment installed in 2008), and

18           “(K) \$200 for each Tier 1 central air con-  
19 ditioner or central heat pump (\$100 for equip-  
20 ment installed in 2008).

21           “(2) SAFETY CERTIFICATIONS.—No credit shall  
22 be allowed under this section for an item of property  
23 unless such property meets the performance and  
24 quality standards, and the certification requirements  
25 (if any), which—

1           “(A) have been prescribed by the Secretary  
2           by regulations (after consultation with the Sec-  
3           retary of Energy or the Administrator of the  
4           Environmental Protection Agency, as appro-  
5           priate),

6           “(B) in the case of the energy efficiency  
7           ratio (EER) for property described in sub-  
8           section (d)(6)(B)(i), (J) and (K)—

9                   “(i) require measurements to be based  
10                   on published data which is tested by manu-  
11                   facturers at 95 degrees Fahrenheit,

12                   “(ii) do not require ratings to be  
13                   based on certified data of the Air Condi-  
14                   tioning and Refrigeration Institute, and

15                   “(iii) are in effect at the time of the  
16                   acquisition of the property.

17           “(c) CARRYFORWARD OF UNUSED CREDIT.—If the  
18           credit allowable under subsection (a) exceeds the limita-  
19           tion imposed by section 26(a) for such taxable year re-  
20           duced by the sum of the credits allowable under this sub-  
21           part (other than this section and section 25D), such excess  
22           shall be carried to the succeeding taxable year and added  
23           to the credit allowable under subsection (a) for such suc-  
24           ceeding taxable year.

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

1           “(1) QUALIFIED ENERGY EFFICIENT BUILDING  
2 PROPERTY EXPENDITURE.—The term ‘qualified en-  
3 ergy efficient building property expenditure’ means  
4 an expenditure for any Tier 2 or Tier 1 energy effi-  
5 cient building property.

6           “(2) TIER 2 ENERGY EFFICIENT BUILDING  
7 PROPERTY.—The term ‘Tier 2 energy efficient build-  
8 ing property’ means—

9                   “(A) an electric heat pump water heater  
10 which yields an energy factor of at least 1.7 in  
11 the standard Department of Energy test proce-  
12 dure,

13                   “(B) a natural gas, oil, propane furnace,  
14 or hot water boiler which achieves at least 95  
15 percent annual fuel utilization efficiency  
16 (AFUE) and which has an advanced main air  
17 circulating fan,

18                   “(C) a natural gas, oil, or propane water  
19 heater (including a tankless water heater)  
20 which has an energy factor of at least 0.80 in  
21 the standard Department of Energy test proce-  
22 dure,

23                   “(D) a combination space and water heat-  
24 ing system which has a combined energy factor  
25 of at least 0.80 and a combined annual fuel uti-

1           lization efficiency (AFUE) of at least 78 per-  
2           cent in the standard Department of Energy test  
3           procedure,

4           “(E) a geothermal heat pump which has  
5           water heating capability by a desuperheater or  
6           full-condensing option and which has an energy  
7           efficiency ratio (EER) of at least 18 for  
8           ground-loop systems, at least 21 for ground-  
9           water systems, and at least 17 for direct  
10          GeoExchange systems; and

11          “(F) a central air conditioner or central  
12          heat pump which meets—

13                  “(i) the highest efficiency tier estab-  
14                  lished by the Consortium for Energy Effi-  
15                  ciency as in effect on Jan. 1, 2006; and

16                  “(ii) for units installed after Decem-  
17                  ber 31, 2006, the Energy Star installation  
18                  specifications that take effect in 2007, as  
19                  set by the Environmental Protection Agen-  
20                  cy.

21          “(3) TIER 1 ENERGY EFFICIENT BUILDING  
22          PROPERTY.—The term ‘Tier 1 energy efficient build-  
23          ing property’ means—

24                  “(A) a natural gas, oil, propane furnace, or  
25                  hot water boiler which achieves at least 92 per-

1 cent annual fuel utilization efficiency (AFUE)  
2 and which has an advanced main air circulating  
3 fan,

4 “(B) a natural gas, oil, or propane water  
5 heater (including a tankless water heater)  
6 which has an energy factor of at least 0.65 but  
7 less than 0.80 in the standard Department of  
8 Energy test procedure,

9 “(C) an advanced main air circulating fan  
10 which has an annual electricity use of no more  
11 than 2 percent of the total annual energy use  
12 (as determined in the standard Department of  
13 Energy test procedures) and which is used in a  
14 new natural gas, propane, or oil-fired furnace,

15 “(D) a combination space and water heat-  
16 ing system which has a combined energy factor  
17 of at least 0.65 but less than 0.80 and a com-  
18 bined annual fuel utilization efficiency (AFUE)  
19 of at least 78 percent in the standard Depart-  
20 ment of Energy test procedure,

21 “(E) a central air conditioner or central  
22 heat pump which meets the Energy Star speci-  
23 fications set by the Environmental Protection  
24 Agency as follows—

1                   “(i) equipment specifications that take  
2                   effect in 2006 (including for units installed  
3                   before the specifications take effect); and

4                   “(ii) for units installed after Decem-  
5                   ber 31, 2006, installation specifications  
6                   that take effect in 2007.

7                   “(4) LABOR COSTS.—Expenditures for labor  
8                   costs properly allocable to the onsite preparation, as-  
9                   sembly, or original installation of the property and  
10                  for piping or wiring to interconnect such property to  
11                  the dwelling unit shall be taken into account for pur-  
12                  poses of this section.

13                  “(e) SPECIAL RULES.—For purposes of this sec-  
14                  tion—

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

20                  “(A) The amount of the credit allowable,  
21                  under subsection (a) by reason of expenditures  
22                  (as the case may be) made during such cal-  
23                  endar year by any of such individuals with re-  
24                  spect to such dwelling unit shall be determined

1           by treating all of such individuals as 1 taxpayer  
2           whose taxable year is such calendar year.

3           “(B) There shall be allowable, with respect  
4           to such expenditures to each of such individ-  
5           uals, a credit under subsection (a) for the tax-  
6           able year in which such calendar year ends in  
7           an amount which bears the same ratio to the  
8           amount determined under subparagraph (A) as  
9           the amount of such expenditures made by such  
10          individual during such calendar year bears to  
11          the aggregate of such expenditures made by all  
12          of such individuals during such calendar year.

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

21          “(3) CONDOMINIUMS.—

22                  “(A) IN GENERAL.—In the case of an indi-  
23          vidual who is a member of a condominium man-  
24          agement association with respect to a condo-  
25          minium which the individual owns, such indi-

1           vidual shall be treated as having made the indi-  
2           vidual's proportionate share of any expenditures  
3           of such association.

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

12          “(4) ALLOCATION IN CERTAIN CASES.—Except  
13          in the case of qualified wind energy property expend-  
14          itures, if less than 80 percent of the use of an item  
15          is for nonbusiness purposes, only that portion of the  
16          expenditures for such item which is properly allo-  
17          cable to use for nonbusiness purposes shall be taken  
18          into account.

19          “(5) WHEN EXPENDITURE MADE; AMOUNT OF  
20          EXPENDITURE.—

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

1           “(B) EXPENDITURES PART OF BUILDING  
2           CONSTRUCTION.—In the case of an expenditure  
3           in connection with the construction or recon-  
4           struction of a structure, such expenditure shall  
5           be treated as made when the original use of the  
6           constructed or reconstructed structure by the  
7           taxpayer begins.

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

10          “(6) PROPERTY FINANCED BY SUBSIDIZED EN-  
11          ERGY FINANCING.—For purposes of determining the  
12          amount of expenditures made by any individual with  
13          respect to any dwelling unit, there shall not be taken  
14          into account expenditures which are made from sub-  
15          sidized energy financing (as defined in section  
16          48(a)(5)(C)).

17          “(f) BASIS ADJUSTMENTS.—For purposes of this  
18          subtitle, if a credit is allowed under this section for any  
19          expenditure with respect to any property, the increase in  
20          the basis of such property which would (but for this sub-  
21          section) result from such expenditure shall be reduced by  
22          the amount of the credit so allowed.

23          “(g) TERMINATION.—The credit allowed under this  
24          section shall not apply to expenditures after December 31,  
25          2008.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 1016(a), as amended by this Act, is  
3 amended by striking “and” at the end of paragraph  
4 (34), by striking the period at the end of paragraph  
5 (35) and inserting “, and”, and by adding at the  
6 end the following new paragraph:

7 “(36) to the extent provided in section 25E(f),  
8 in the case of amounts with respect to which a credit  
9 has been allowed under section 25E.”.

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

“25E. Residential energy efficient property.”.

14 (c) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided by para-  
16 graph (2), the amendments made by this section  
17 shall apply to expenditures after December 31,  
18 2005, in taxable years ending after such date.

19 (2) SUBSECTION (b).—The amendments made  
20 by subsection (b) shall apply to taxable years begin-  
21 ning after December 31, 2005.

22 **SEC. 505. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-  
24 chapter A of chapter 1 (relating to business-related cred-

1 its) is amended by adding at the end the following new  
2 section:

3 **“SEC. 45K. ENERGY EFFICIENT APPLIANCE CREDIT.**

4 “(a) GENERAL RULE.—

5 “(1) IN GENERAL.—For purposes of section 38,  
6 the energy efficient appliance credit determined  
7 under this section for any taxable year is an amount  
8 equal to the sum of the credit amounts determined  
9 under paragraph (2) for each type of qualified en-  
10 ergy efficient appliance produced by the taxpayer  
11 during the calendar year ending with or within the  
12 taxable year.

13 “(2) CREDIT AMOUNTS.—The credit amount  
14 determined for any type of qualified energy efficient  
15 appliance is—

16 “(A) the applicable amount determined  
17 under subsection (b) with respect to such type,  
18 multiplied by

19 “(B) the eligible production for such type.

20 “(b) APPLICABLE AMOUNT.—

21 “(1) IN GENERAL.—For purposes of subsection  
22 (a)—

23 “(A) DISHWASHERS.—The applicable  
24 amount is the energy savings amount in the  
25 case of a dishwasher which—

1           “(i) is manufactured in calendar year  
2           2006 or 2007, and

3           “(ii) meets the requirements of the  
4           Energy Star program which are in effect  
5           for dishwashers in 2007.

6           “(B) CLOTHES WASHERS.—The applicable  
7           amount is—

8           “(i) \$50, in the case of a clothes  
9           washer which—

10           “(I) is manufactured in calendar  
11           year 2005, and

12           “(II) has an MEF of at least  
13           1.42,

14           “(ii) \$100, in the case of a clothes  
15           washer which—

16           “(I) is manufactured in calendar  
17           year 2005, 2006, or 2007, and

18           “(II) meets the requirements of  
19           the Energy Star program which are in  
20           effect for clothes washers in 2007,  
21           and

22           “(iii) the energy and water savings  
23           amount, in the case of a clothes washer  
24           which—

1                   “(I) is manufactured in calendar  
2                   year 2008, 2009, or 2010, and

3                   “(II) meets the requirements of  
4                   the Energy Star program which are in  
5                   effect for clothes washers in 2010.

6                   “(C) REFRIGERATORS.—

7                   “(i) 15 PERCENT SAVINGS.—The ap-  
8                   plicable amount is \$75 in the case of a re-  
9                   frigerator which—

10                   “(I) is manufactured in calendar  
11                   year 2005 or 2006, and

12                   “(II) consumes at least 15 per-  
13                   cent but not more than 20 percent  
14                   less kilowatt hours per year than the  
15                   2001 energy conservation standard.

16                   “(ii) 20 PERCENT SAVINGS.—In the  
17                   case of a refrigerator which consumes at  
18                   least 20 percent but not more than 25 per-  
19                   cent less kilowatt hours per year than the  
20                   2001 energy conservation standards, the  
21                   applicable amount is—

22                   “(I) \$125 for a refrigerator  
23                   which is manufactured in calendar  
24                   year 2005, 2006, or 2007, and

1           “(II) \$100 for a refrigerator  
2           which is manufactured in calendar  
3           year 2008.

4           “(iii) 25 PERCENT SAVINGS.—In the  
5           case of a refrigerator which consumes at  
6           least 25 percent less kilowatt hours per  
7           year than the 2001 energy conservation  
8           standards, the applicable amount is—

9           “(I) \$175 for a refrigerator  
10          which is manufactured in calendar  
11          year 2005, 2006, or 2007, and

12          “(II) \$150 for a refrigerator  
13          which is manufactured in calendar  
14          year 2008, 2009, or 2010.

15          “(2) ENERGY SAVINGS AMOUNT.—For purposes  
16          of paragraph (1)(A)—

17          “(A) IN GENERAL.—The energy savings  
18          amount is the lesser of—

19          “(i) the product of—

20                  “(I) \$3, and

21                  “(II) 100 multiplied by the en-  
22                  ergy savings percentage, or

23                  “(ii) \$100.

1           “(B) ENERGY SAVINGS PERCENTAGE.—

2           For purposes of subparagraph (A), the energy  
3           savings percentage is the ratio of—

4                   “(i) the EF required by the Energy  
5                   Star program for dishwashers in 2007  
6                   minus the EF required by the Energy Star  
7                   program for dishwashers in 2005, to

8                   “(ii) the EF required by the Energy  
9                   Star program for dishwashers in 2007.

10          “(3) ENERGY AND WATER SAVINGS AMOUNT.—

11          For purposes of paragraph (1)(B)(iii)—

12                   “(A) IN GENERAL.—The energy and water  
13                   savings amount is the lesser of—

14                           “(i) the product of—

15                                   “(I) \$10, and

16                                   “(II) 100 multiplied by the en-  
17                                   ergy and water savings percentage, or

18                           “(ii) \$200.

19                   “(B) ENERGY AND WATER SAVINGS PER-  
20                   CENTAGE.—For purposes of subparagraph (A),  
21                   the energy and water savings percentage is the  
22                   average of the MEF savings percentage and the  
23                   WF savings percentage.

1           “(C) MEF SAVINGS PERCENTAGE.—For  
2 purposes of this paragraph, the MEF savings  
3 percentage is the ratio of—

4           “(i) the MEF required by the Energy  
5 Star program for clothes washers in 2010  
6 minus the MEF required by the Energy  
7 Star program for clothes washers in 2007,  
8 to

9           “(ii) the MEF required by the Energy  
10 Star program for clothes washers in 2010.

11           “(D) WF SAVINGS PERCENTAGE.—For  
12 purposes of this paragraph, the WF savings  
13 percentage is the ratio of—

14           “(i) the WF required by the Energy  
15 Star program for clothes washers in 2007  
16 minus the WF required by the Energy  
17 Star program for clothes washers in 2010,  
18 to

19           “(ii) the WF required by the Energy  
20 Star program for clothes washers in 2007.

21           “(c) ELIGIBLE PRODUCTION.—

22           “(1) IN GENERAL.—Except as provided in para-  
23 graphs (2) and (3), the eligible production in a cal-  
24 endar year with respect to each type of energy effi-  
25 cient appliance is the excess of—

1           “(A) the number of appliances of such type  
2           which are produced by the taxpayer in the  
3           United States during such calendar year, over

4           “(B) the average number of appliances of  
5           such type which were produced by the taxpayer  
6           (or any predecessor) in the United States dur-  
7           ing the preceding 3-calendar year period.

8           “(2) SPECIAL RULE FOR REFRIGERATORS.—  
9           The eligible production in a calendar year with re-  
10          spect to each type of refrigerator described in sub-  
11          section (b)(1)(C) is the excess of—

12           “(A) the number of appliances of such type  
13           which are produced by the taxpayer in the  
14           United States during such calendar year, over

15           “(B) 110 percent of the average number of  
16           appliances of such type which were produced by  
17           the taxpayer (or any predecessor) in the United  
18           States during the preceding 3-calendar year pe-  
19           riod.

20           “(3) SPECIAL RULE FOR 2005 PRODUCTION.—  
21          For purposes of determining eligible production for  
22          calendar year 2005—

23           “(A) only production after the date of en-  
24           actment of this section shall be taken into ac-  
25           count under paragraphs (1)(A) and (2)(A), and

1           “(B) the amount taken into account under  
2 paragraphs (1)(B) and (2)(B) shall be an  
3 amount which bears the same ratio to the  
4 amount which would (but for this paragraph)  
5 be taken into account under such paragraph  
6 as—

7                   “(i) the number of days in calendar  
8 year 2005 after the date of enactment of  
9 this section, bears to

10                   “(ii) 365.

11           “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—

12 For purposes of this section, the types of energy efficient  
13 appliances are—

14           “(1) dishwashers described in subsection  
15 (b)(1)(A),

16           “(2) clothes washers described in subsection  
17 (b)(1)(B)(i),

18           “(3) clothes washers described in subsection  
19 (b)(1)(B)(ii),

20           “(4) clothes washers described in subsection  
21 (b)(1)(B)(iii),

22           “(5) refrigerators described in subsection  
23 (b)(1)(C)(i),

24           “(6) refrigerators described in subsection  
25 (b)(1)(C)(ii)(I),

1           “(7) refrigerators described in subsection  
2 (b)(1)(C)(ii)(II),

3           “(8) refrigerators described in subsection  
4 (b)(1)(C)(iii)(I), and

5           “(9) refrigerators described in subsection  
6 (b)(1)(C)(iii)(II).

7           “(e) LIMITATIONS.—

8           “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

9           The aggregate amount of credit allowed under sub-  
10 section (a) with respect to a taxpayer for any tax-  
11 able year shall not exceed \$75,000,000 reduced by  
12 the amount of the credit allowed under subsection  
13 (a) to the taxpayer (or any predecessor) for all prior  
14 taxable years.

15           “(2) AMOUNT ALLOWED FOR CERTAIN APPLI-  
16 ANCES.—

17           “(A) IN GENERAL.—In the case of appli-  
18 ances described in subparagraph (C), the aggre-  
19 gate amount of the credit allowed under sub-  
20 section (a) with respect to a taxpayer for any  
21 taxable year shall not exceed \$20,000,000 re-  
22 duced by the amount of the credit allowed  
23 under subsection (a) to the taxpayer (or any  
24 predecessor) for all prior taxable years with re-  
25 spect to such appliances.

1           “(B) ELECTION TO INCREASE ALLOWABLE  
2 CREDIT.—In the case of any taxpayer who  
3 makes an election under this subparagraph—

4           “(i) subparagraph (A) shall be applied  
5 by substituting ‘\$25,000,000’ for  
6 ‘\$20,000,000’, and

7           “(ii) the aggregate amount of the  
8 credit allowed under subsection (a) with re-  
9 spect to such taxpayer for any taxable year  
10 for appliances described in subparagraph  
11 (C) and the additional appliances described  
12 in subparagraph (D) shall not exceed  
13 \$50,000,000 reduced by the amount of the  
14 credit allowed under subsection (a) to the  
15 taxpayer (or any predecessor) for all prior  
16 taxable years with respect to such appli-  
17 ances.

18           “(C) APPLIANCES DESCRIBED.—The appli-  
19 ances described in this subparagraph are—

20           “(i) clothes washers described in sub-  
21 section (b)(1)(B)(i), and

22           “(ii) refrigerators described in sub-  
23 section (b)(1)(C)(i).

1           “(D) ADDITIONAL APPLIANCES.—The ad-  
2           ditional appliances described in this subpara-  
3           graph are—

4                   “(i) refrigerators described in sub-  
5                   section (b)(1)(C)(ii)(I), and

6                   “(ii) refrigerators described in sub-  
7                   section (b)(1)(C)(ii)(II).

8           “(3) LIMITATION BASED ON GROSS RE-  
9           CEIPTS.—The credit allowed under subsection (a)  
10           with respect to a taxpayer for the taxable year shall  
11           not exceed an amount equal to 2 percent of the aver-  
12           age annual gross receipts of the taxpayer for the 3  
13           taxable years preceding the taxable year in which  
14           the credit is determined.

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

18           “(f) DEFINITIONS.—For purposes of this section—

19                   “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
20                   ANCE.—The term ‘qualified energy efficient appli-  
21                   ance’ means—

22                           “(A) any dishwasher described in sub-  
23                           section (b)(1)(A),

24                           “(B) any clothes washer described in sub-  
25                           section (b)(1)(B), and

1           “(C) any refrigerator described in sub-  
2           section (b)(1)(C).

3           “(2) DISHWASHER.—The term ‘dishwasher’  
4           means a residential dishwasher subject to the energy  
5           conservation standards established by the Depart-  
6           ment of Energy.

7           “(3) CLOTHES WASHER.—The term ‘clothes  
8           washer’ means a residential model clothes washer,  
9           including a residential style coin operated washer.

10          “(4) REFRIGERATOR.—The term ‘refrigerator’  
11          means a residential model automatic defrost refrig-  
12          erator-freezer which has an internal volume of at  
13          least 16.5 cubic feet.

14          “(5) MEF.—The term ‘MEF’ means the modi-  
15          fied energy factor established by the Department of  
16          Energy for compliance with the Federal energy con-  
17          servation standards.

18          “(6) EF.—The term ‘EF’ means the energy  
19          factor established by the Department of Energy for  
20          compliance with the Federal energy conservation  
21          standards.

22          “(7) WF.—The term ‘WF’ means Water Fac-  
23          tor (as determined by the Secretary of Energy).

24          “(8) PRODUCED.—The term ‘produced’ in-  
25          cludes manufactured.

1           “(9) 2001 ENERGY CONSERVATION STAND-  
2           ARD.—The term ‘2001 energy conservation stand-  
3           ard’ means the energy conservation standards pro-  
4           mulgated by the Department of Energy and effective  
5           July 1, 2001.

6           “(g) SPECIAL RULES.—For purposes of this sec-  
7           tion—

8           “(1) IN GENERAL.—Rules similar to the rules  
9           of subsections (c), (d), and (e) of section 52 shall  
10          apply.

11          “(2) CONTROLLED GROUP.—

12           “(A) IN GENERAL.—All persons treated as  
13           a single employer under subsection (a) or (b) of  
14           section 52 or subsection (m) or (o) of section  
15           414 shall be treated as a single producer.

16           “(B) INCLUSION OF FOREIGN CORPORA-  
17           TIONS.—For purposes of subparagraph (A), in  
18           applying subsections (a) and (b) of section 52  
19           to this section, section 1563 shall be applied  
20           without regard to subsection (b)(2)(C) thereof.

21           “(3) VERIFICATION.—No amount shall be al-  
22           lowed as a credit under subsection (a) with respect  
23           to which the taxpayer has not submitted such infor-  
24           mation or certification as the Secretary, in consulta-

1       tion with the Secretary of Energy, determines nec-  
2       essary.”.

3       (b) CONFORMING AMENDMENT.—Section 38(b) (re-  
4       lating to general business credit) is amended by striking  
5       “plus” at the end of paragraph (19), by striking the period  
6       at the end of paragraph (20) and inserting “, plus”, and  
7       by adding at the end the following new paragraph:

8               “(21) the energy efficient appliance credit de-  
9       termined under section 45K(a).”.

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

“45K. Energy efficient appliance credit.”.

13       (d) EFFECTIVE DATE.—The amendments made by  
14       this section shall apply to appliances produced after the  
15       date of the enactment of this Act, in taxable years ending  
16       after such date.

17       **SEC. 506. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**  
18               **PROPERTY USED IN BUSINESS.**

19       (a) IN GENERAL.—Part VI of subchapter B of chap-  
20       ter 1 is amended by adding at the end the following new  
21       section:

22       **“SEC. 200. ENERGY PROPERTY DEDUCTION.**

23               “(a) IN GENERAL.—There shall be allowed as a de-  
24       duction for the taxable year an amount equal to the sum  
25       of—

1           “(1) the amount determined under subsection  
2           (b) for each energy property of the taxpayer placed  
3           in service during such taxable year, and

4           “(2) the energy efficient residential rental  
5           building property deduction determined under sub-  
6           section (d).

7           “(b) AMOUNT FOR ENERGY PROPERTY.—

8           “(1) IN GENERAL.—The amount determined  
9           under this subsection for the taxable year for each  
10          item of energy property is—

11           “(A) \$900 for each Tier 2 electric heat  
12          pump water heater,

13           “(B) \$900 for each Tier 2 natural gas, oil  
14          or propane furnace or hot water boiler installed  
15          in 2006 (\$750 for equipment installed in 2007,  
16          \$600 for equipment installed in 2008),

17           “(C) \$600 for each Tier 1 natural gas, oil,  
18          or propane furnace, or hot water boiler installed  
19          in 2006 (\$450 for equipment installed in 2007,  
20          \$300 for equipment installed in 2008),

21           “(D) \$900 for each Tier 2 natural gas, oil,  
22          or propane water heater,

23           “(E) \$150 for each Tier 1 natural gas, oil,  
24          or propane water heater,

1           “(F) \$150 for a Tier 1 advanced main air  
2           circulating fan which is installed in a furnace  
3           with an Annual Fuel Utilization Efficiency of  
4           less than 92 percent,

5           “(G) \$900 for each Tier 2 combination  
6           space and water heating system,

7           “(H) \$150 for each Tier 1 combination  
8           space and water heating system,

9           “(I) \$750 for each Tier 2 geothermal heat  
10          pump,

11          “(J) \$900 for each Tier 2 central air con-  
12          ditioner or central heat pump (\$600 for equip-  
13          ment installed in 2008), and

14          “(K) \$600 for each Tier 1 central air con-  
15          ditioner or central heat pump (\$300 for equip-  
16          ment installed in 2008).

17          “(2) SAFETY CERTIFICATIONS.—A rule similar  
18          to the rule of section 25E(b)(2) shall apply for pur-  
19          poses of this section.

20          “(c) ENERGY PROPERTY DEFINED.—For purposes of  
21          this part, the term ‘energy property’ means any prop-  
22          erty—

23                 “(1) which is energy efficient building property  
24                 (as defined in section 25E(d),

1           “(2)(A) the construction, reconstruction, or  
2 erection of which is completed by the taxpayer, or

3           “(B) which is acquired by the taxpayer if the  
4 original use of such property commences with the  
5 taxpayer, and

6           “(3) with respect to which depreciation (or am-  
7 ortization in lieu of depreciation) is allowable.

8           “(d) ENERGY EFFICIENT RESIDENTIAL RENTAL  
9 BUILDING PROPERTY DEDUCTION.—

10           “(1) DEDUCTION ALLOWED.—For purposes of  
11 subsection (a)—

12           “(A) IN GENERAL.—The energy efficient  
13 residential rental building property deduction  
14 determined under this subsection is an amount  
15 equal to energy efficient residential rental build-  
16 ing property expenditures made by a taxpayer  
17 for the taxable year.

18           “(B) MAXIMUM AMOUNT OF DEDUC-  
19 TION.—The amount of energy efficient residen-  
20 tial rental building property expenditures taken  
21 into account under subparagraph (A) with re-  
22 spect to each dwelling unit shall not exceed—

23           “(i) \$6,000 in the case of a percent-  
24 age reduction of 50 percent as determined  
25 under paragraph (2)(B), and

1           “(ii) \$12,000 times the percentage re-  
2           duction in the case of a percentage reduc-  
3           tion of less than 50 percent as determined  
4           under paragraph (2)(B).

5           “(C) YEAR DEDUCTION ALLOWED.—The  
6           deduction under subparagraph (A) shall be al-  
7           lowed in the taxable year in which the construc-  
8           tion, reconstruction, erection, or rehabilitation  
9           of the property is completed.

10          “(2) ENERGY EFFICIENT RESIDENTIAL RENTAL  
11          BUILDING PROPERTY EXPENDITURES.—For pur-  
12          poses of this subsection—

13                 “(A) IN GENERAL.—The term ‘energy effi-  
14                 cient residential rental building property ex-  
15                 penditures’ means an amount paid or incurred  
16                 in connection with construction, reconstruction,  
17                 erection, or rehabilitation of energy efficient  
18                 residential rental building property—

19                         “(i) for which depreciation is allow-  
20                         able under section 167,

21                         “(ii) which is located in the United  
22                         States, and

23                         “(iii) the construction, reconstruction,  
24                         erection, or rehabilitation of which is com-  
25                         pleted by the taxpayer.

1           Such term includes expenditures for labor costs  
2           properly allocable to the onsite preparation, as-  
3           sembly, or original installation of the property.

4           “(B) ENERGY EFFICIENT RESIDENTIAL  
5           RENTAL BUILDING PROPERTY.—

6           “(i) IN GENERAL.—The term ‘energy  
7           efficient residential rental building prop-  
8           erty’ means any property which reduces  
9           total annual energy and power costs with  
10          respect to heating and cooling of the build-  
11          ing by a percentage certified according to  
12          clause (ii).

13          “(ii) PROCEDURES.—

14                 “(I) IN GENERAL.—For purposes  
15                 of clause (i), energy usage and costs  
16                 shall be demonstrated by perform-  
17                 ance-based compliance.

18                 “(II) PERFORMANCE-BASED COM-  
19                 PLIANCE.—Performance-based compli-  
20                 ance shall be demonstrated by calcu-  
21                 lating the percent energy cost savings  
22                 for heating and cooling, as applicable,  
23                 with respect to a dwelling unit when  
24                 compared to the original condition of  
25                 the dwelling unit.

1                   “(III) COMPUTER SOFTWARE.—  
2                   Computer software shall be used in  
3                   support of performance-based compli-  
4                   ance under subclause (II) and such  
5                   software shall meet all of the proce-  
6                   dures and methods for calculating en-  
7                   ergy savings reductions which are pro-  
8                   mulgated by the Secretary of Energy.  
9                   Such regulations on the specifications  
10                  for software and verification protocols  
11                  shall be based on the 2005 California  
12                  Residential Alternative Calculation  
13                  Method Approval Manual.

14                  “(IV) CALCULATION REQUIRE-  
15                  MENTS.—In calculating tradeoffs and  
16                  energy performance, the regulations  
17                  prescribed under this clause shall pre-  
18                  scribe for the taxable year the costs  
19                  per unit of energy and power, such as  
20                  kilowatt hour, kilowatt, gallon of fuel  
21                  oil, and cubic foot or Btu of natural  
22                  gas, which may be dependent on time  
23                  of usage. Where a State has developed  
24                  annual energy usage and cost reduc-  
25                  tion procedures based on time of

1 usage costs for use in the performance  
2 standards of the State’s building en-  
3 ergy code prior to the effective date of  
4 this section, the State may use those  
5 annual energy usage and cost reduc-  
6 tion procedures in lieu of those adopt-  
7 ed by the Secretary.

8 “(V) APPROVAL OF SOFTWARE  
9 SUBMISSIONS.—The Secretary shall  
10 approve software submissions which  
11 comply with the requirements of sub-  
12 clause (III).

13 “(VI) PROCEDURES FOR INSPEC-  
14 TION AND TESTING OF HOMES.—The  
15 Secretary shall ensure that procedures  
16 for the inspection and testing for com-  
17 pliance comply with the calculation re-  
18 quirements under subclause (IV) of  
19 this clause and clause (iv).

20 “(iii) DETERMINATIONS OF COMPLI-  
21 ANCE.—A determination of compliance  
22 with respect to energy efficient residential  
23 rental building property made for the pur-  
24 poses of this subparagraph shall be filed  
25 with the Secretary not later than 1 year

1 after the date of such determination and  
2 shall include the TIN of the certifier, the  
3 address of the building in compliance, and  
4 the identity of the person for whom such  
5 determination was performed. Determina-  
6 tions of compliance filed with the Secretary  
7 shall be available for inspection by the Sec-  
8 retary of Energy.

9 “(iv) COMPLIANCE.—

10 “(I) IN GENERAL.—The Sec-  
11 retary, after consultation with the  
12 Secretary of Energy, shall establish  
13 requirements for certification and  
14 compliance procedures after exam-  
15 ining the requirements for energy con-  
16 sultants and home energy ratings pro-  
17 viders specified by the Mortgage In-  
18 dustry National Home Energy Rating  
19 Standards.

20 “(II) INDIVIDUALS QUALIFIED  
21 TO DETERMINE COMPLIANCE.—The  
22 determination of compliance may be  
23 provided by a local building regulatory  
24 authority, a utility, a manufactured  
25 home production inspection primary

1 inspection agency (IPIA), a home in-  
2 spector, or an accredited home energy  
3 rating system provider. All providers  
4 shall be accredited, or otherwise au-  
5 thorized to use approved energy per-  
6 formance measurement methods, by  
7 the Residential Energy Services Net-  
8 work (RESNET).

9 “(C) ALLOCATION OF DEDUCTION FOR  
10 PUBLIC PROPERTY.—In the case of energy effi-  
11 cient residential rental building property which  
12 is public property, the Secretary shall promul-  
13 gate a regulation to allow the allocation of the  
14 deduction to the person primarily responsible  
15 for designing the improvements to the property  
16 in lieu of the public entity which is the owner  
17 of such property. Such person shall be treated  
18 as the taxpayer for purposes of this subsection.

19 “(e) SPECIAL RULES.—For purposes of this sec-  
20 tion—

21 “(1) BASIS REDUCTION.—For purposes of this  
22 subtitle, if a deduction is allowed under this section  
23 with respect to any property, the basis of such prop-  
24 erty shall be reduced by the amount of the deduction  
25 so allowed.

1           “(2) DOUBLE BENEFIT.—Property which  
2 would, but for this paragraph, be eligible for deduc-  
3 tion under more than one provision of this section  
4 shall be eligible only under one such provision, the  
5 provision specified by the taxpayer.

6           “(f) REGULATIONS.—The Secretary shall promulgate  
7 such regulations as necessary to take into account new  
8 technologies regarding energy efficiency and renewable en-  
9 ergy for purposes of determining energy efficiency and  
10 savings under this section.

11          “(g) TERMINATION.—This section shall not apply  
12 with respect to—

13           “(1) any energy property placed in service after  
14 December 31, 2008, and

15           “(2) any energy efficient residential rental  
16 building property expenditures in connection with  
17 property—

18           “(A) placed in service after December 31,  
19 2009, or

20           “(B) the construction, reconstruction, erec-  
21 tion, or rehabilitation of which is not completed  
22 on or before December 31, 2009.”.

23          (b) CONFORMING AMENDMENTS.—

24           (1) Section 48(a)(3)(A) is amended to read as  
25 follows:

1           “(A) which is equipment used to produce,  
2           distribute, or use energy derived from a geo-  
3           thermal deposit (within the meaning of section  
4           613(e)(2)), but only, in the case of electricity  
5           generated by geothermal power, up to (but not  
6           including) the electrical transmission stage.”.

7           (2) Subparagraph (B) of section 168(e)(3) is  
8           amended—

9           (A) in clause (vi)(I)—

10           (i) by striking “section 48(a)(3)” and  
11           inserting “section 200(d)(1)”, and

12           (ii) by striking “clause (i)” and in-  
13           serting “such subparagraph (A)”, and

14           (B) in the last sentence, by striking “sec-  
15           tion 48(a)(3)” and inserting “section  
16           200(c)(3)”.

17           (3) Section 1016(a), as amended by this Act, is  
18           amended by striking “and” at the end of paragraph  
19           (35), by striking the period at the end of paragraph  
20           (36) and inserting “, and”, and by inserting the fol-  
21           lowing new paragraph:

22           “(37) for amounts allowed as a deduction under  
23           section 200(a).”.

1 (c) CLERICAL AMENDMENT.—The table of sections  
2 for part VI of subchapter B of chapter 1 is amended by  
3 adding at the end the following new item:

“200. Energy property deduction.”.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated to the Department of  
6 Energy out of amounts not already appropriated such  
7 sums as necessary to carry out this section.

8 (e) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2005.

11 **SEC. 507. CREDIT FOR BUSINESS INSTALLATION OF QUALI-**  
12 **FIED FUEL CELLS.**

13 (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-  
14 nal Revenue Code of 1986 (defining energy property), as  
15 amended by section 301, is amended by striking “or” at  
16 the end of clause (i), by adding “or” at the end of clause  
17 (ii), and by inserting after clause (ii) the following new  
18 clause:

19 “(iii) qualified fuel cell property,”.

20 (b) QUALIFIED FUEL CELL PROPERTY.—Section 48  
21 of such Code (relating to energy credit) is amended by  
22 adding at the end the following new subsection:

23 “(c) QUALIFIED FUEL CELL PROPERTY.—For pur-  
24 poses of subsection (a)(3)(A)(iii)—

1           “(1) IN GENERAL.—The term ‘qualified fuel  
2 cell property’ means a fuel cell power plant which  
3 generates at least 0.5 kilowatt of electricity using an  
4 electrochemical process.

5           “(2) LIMITATION.—The energy credit with re-  
6 spect to any qualified fuel cell property shall not ex-  
7 ceed an amount equal to \$500 for each 0.5 kilowatt  
8 of capacity of such property.

9           “(3) FUEL CELL POWER PLANT.—The term  
10 ‘fuel cell power plant’ means an integrated system,  
11 comprised of a fuel cell stack assembly and associ-  
12 ated balance of plant components, which converts a  
13 fuel into electricity using electrochemical means.

14           “(4) TERMINATION.—The term ‘qualified fuel  
15 cell property’ shall not include any property placed  
16 in service after December 31, 2009.”.

17           (c) ENERGY PERCENTAGE.—Subparagraph (A) of  
18 section 48(a)(2) of such Code (relating to energy percent-  
19 age) is amended to read as follows:

20                   “(A) IN GENERAL.—The energy percent-  
21 age is—

22                           “(i) in the case of qualified fuel cell  
23 property, 30 percent, and

24                           “(ii) in the case of any other energy  
25 property, 10 percent.”.

1 (d) CONFORMING AMENDMENT.—Section 48(a)(1) of  
2 such Code is amended by inserting “except as provided  
3 in subsection (c)(2),” before “the energy”.

4 (e) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to periods after December 31,  
6 2005, under rules similar to the rules of section 48(m)  
7 of the Internal Revenue Code of 1986 (as in effect on the  
8 day before the date of the enactment of the Revenue Rec-  
9 onciliation Act of 1990).

10 **SEC. 508. CREDIT FOR NONBUSINESS INSTALLATION OF**  
11 **QUALIFIED FUEL CELLS [NEW ADDITION NOT**  
12 **UPDATED].**

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

18 **“SEC. 25F. NONBUSINESS INSTALLATION OF QUALIFIED**  
19 **FUEL CELLS.**

20 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
21 dividual, there shall be allowed as a credit against the tax  
22 imposed by this chapter for the taxable year an amount  
23 equal to the sum of 30 percent of the qualified fuel cell  
24 property expenditures made by the taxpayer during such  
25 year.

1 “(b) LIMITATIONS.—

2 “(1) MAXIMUM CREDIT.—The credit allowed  
3 under subsection (a) shall not exceed \$500 for each  
4 0.5 kilowatt of capacity of qualified fuel cell prop-  
5 erty.

6 “(2) PROPERTY STANDARDS.—No credit shall  
7 be allowed under this section for an item of property  
8 unless—

9 “(A) the original use of such property com-  
10 mences with the taxpayer,

11 “(B) such property reasonably can be ex-  
12 pected to remain in use for at least 5 years,

13 “(C) such property is installed on or in  
14 connection with a dwelling unit located in the  
15 United States and used as a residence by the  
16 taxpayer,

17 “(D) such property meets the performance  
18 and quality standards (if any) which have been  
19 prescribed by the Secretary by regulations  
20 (after consultation with the Secretary of En-  
21 ergy), and

22 “(E) such property meets appropriate fire  
23 and electric code requirements.

24 “(c) QUALIFIED FUEL CELL PROPERTY EXPENDI-  
25 TURE.—For purposes of this section, the term ‘qualified

1 fuel cell property expenditure' means an expenditure for  
2 any qualified fuel cell property (as defined in section  
3 48(c)(1)).

4 “(d) SPECIAL RULES.—For purposes of this sec-  
5 tion—

6 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
7 CUPANCY.—In the case of any dwelling unit which is  
8 jointly occupied and used during any calendar year  
9 as a residence by 2 or more individuals, the fol-  
10 lowing rules shall apply:

11 “(A) The amount of the credit allowable  
12 under subsection (a) by reason of expenditures  
13 made during such calendar year by any of such  
14 individuals with respect to such dwelling unit  
15 shall be determined by treating all of such indi-  
16 viduals as 1 taxpayer whose taxable year is  
17 such calendar year.

18 “(B) There shall be allowable, with respect  
19 to such expenditures to each of such individ-  
20 uals, a credit under subsection (a) for the tax-  
21 able year in which such calendar year ends in  
22 an amount which bears the same ratio to the  
23 amount determined under subparagraph (A) as  
24 the amount of such expenditures made by such  
25 individual during such calendar year bears to

1 the aggregate of such expenditures made by all  
2 of such individuals during such calendar year.

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

11 “(3) CONDOMINIUMS.—

12 “(A) IN GENERAL.—In the case of an indi-  
13 vidual who is a member of a condominium man-  
14 agement association with respect to a condo-  
15 minium which the individual owns, such indi-  
16 vidual shall be treated as having made the indi-  
17 vidual’s proportionate share of any expenditures  
18 of such association.

19 “(B) CONDOMINIUM MANAGEMENT ASSO-  
20 CIATION.—For purposes of this paragraph, the  
21 term ‘condominium management association’  
22 means an organization which meets the require-  
23 ments of paragraph (1) of section 528(c) (other  
24 than subparagraph (E) thereof) with respect to

1 a condominium project substantially all of the  
2 units of which are used as residences.

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

8 “(5) WHEN EXPENDITURE MADE; AMOUNT OF  
9 EXPENDITURE.—

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

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

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

23 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-  
24 ERGY FINANCING.—For purposes of determining the  
25 amount of expenditures made by any individual with

1       respect to any dwelling unit, there shall not be taken  
2       into account expenditures which are made from sub-  
3       sidized energy financing (as defined in section  
4       48(a)(4)(C)).

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

11      “(f) TERMINATION.—The credit allowed under this  
12      section shall not apply to taxable years beginning after  
13      December 31, 2009.”.

14      (b) CONFORMING AMENDMENTS.—

15           (1) Section 1016(a) of such Code is amended  
16           by striking “and” at the end of paragraph (36), by  
17           striking the period at the end of paragraph (37) and  
18           inserting “, and”, and by adding at the end the fol-  
19           lowing new paragraph:

20                   “(38) to the extent provided in section 25F(e),  
21                   in the case of amounts with respect to which a credit  
22                   has been allowed under section 25F.”.

23           (2) The table of sections for subpart A of part  
24           IV of subchapter A of chapter 1 of such Code is

1 amended by adding at the end the following new  
2 item:

“Sec. 25F. Nonbusiness installation of qualified fuel cells.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to taxable years ending after De-  
5 cember 31, 2005.

6 **SEC. 509. NEW NONREFUNDABLE PERSONAL CREDITS AL-**  
7 **LOWED AGAINST REGULAR AND MINIMUM**  
8 **TAXES.**

9 (a) **IN GENERAL.**—

10 (1) **SECTION 25c.**—Section 25C(c), as added by  
11 this Act, is amended by adding at the end the fol-  
12 lowing new paragraph:

13 “(12) **LIMITATION BASED ON AMOUNT OF**  
14 **TAX.**—The credit allowed under subsection (a) for  
15 the taxable year shall not exceed the excess of—

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

19 “(B) the sum of the credits allowable  
20 under this subpart (other than this section) and  
21 section 27 for the taxable year.”.

22 (2) **SECTION 25d.**—Section 25D(f), as added by  
23 this Act, is amended by adding at the end the fol-  
24 lowing new paragraph:

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

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

7           “(B) the sum of the credits allowable  
8 under this subpart (other than this section) and  
9 section 27 for the taxable year.”.

10          (3) SECTION 25e.—Section 25E(e), as added by  
11 this Act, is amended by adding at the end the fol-  
12 lowing new paragraph:

13           “(7) LIMITATION BASED ON AMOUNT OF  
14 TAX.—The credit allowed under subsection (a) for  
15 the taxable year shall not exceed the excess of—

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

19           “(B) the sum of the credits allowable  
20 under this subpart (other than this section) and  
21 section 27 for the taxable year.”.

22          (4) SECTION 25f.—Section 25F(b), as added by  
23 this Act, is amended by adding at the end the fol-  
24 lowing new paragraph:

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

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

7                   “(B) the sum of the credits allowable  
8                   under this subpart (other than this section) and  
9                   section 27 for the taxable year.”.

10 (b) CONFORMING AMENDMENTS.—

11           (1) Section 23(b)(4)(B) is amended by inserting  
12 “and sections 25C, 25D, 25E, and 25F” after “this  
13 section”.

14           (2) Section 24(b)(3)(B) is amended by striking  
15 “and 25B” and inserting “, 25B, 25C, 25D, 25E,  
16 and 25F”.

17           (3) Section 25(e)(1)(C) is amended by inserting  
18 “25C, 25D, 25E, and 25F” after “25B,”.

19           (4) Section 25B(g)(2) is amended by striking  
20 “section 23” and inserting “sections 23, 25C, 25D,  
21 25E, and 25F”.

22           (5) Section 26(a)(1) is amended by striking  
23 “and 25B” and inserting “25B, 25C, 25D, 25E,  
24 and 25F”.

1           (6) Section 904(i) is amended by striking “and  
2           25B” and inserting “25B, 25C, 25D, 25E, and  
3           25F”.

4           (7) Section 1400C(d) is amended by striking  
5           “and 25B” and inserting “25B, 25C, 25D, 25E,  
6           and 25F”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2005.

10 **SEC. 510. CERTAIN BUSINESS ENERGY CREDITS ALLOWED**  
11 **AGAINST REGULAR AND MINIMUM TAXES.**

12           (a) IN GENERAL.—Subparagraph (B) of section  
13 38(c)(4) (relating to specified credits) is amended by re-  
14 designating clause (ii) as clause (iv) and by striking clause  
15 (i) and inserting the following new clauses:

16                           “(i) the credits determined under sec-  
17                           tions 40, 45H, 45I, 45J, and 45K,

18                           “(ii) so much of the credit determined  
19                           under section 46 as is attributable to sec-  
20                           tion 48(a)(3)(A)(iii),

21                           “(iii) for taxable years beginning after  
22                           December 31, 2005, and before January 1,  
23                           2008, the credit determined under section  
24                           43, and”.

25           (b) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as provided by para-  
2           graph (2), the amendment made by subsection (a)  
3           shall apply to credits determined under the Internal  
4           Revenue Code of 1986 for taxable years beginning  
5           after December 31, 2005.

6           (2) FUEL CELLS.—Clause (ii) of section  
7           38(c)(4)(B) of the Internal Revenue Code of 1986,  
8           as amended by subsection (a) of this section, shall  
9           apply to credits determined under the Internal Rev-  
10          enue Code of 1986 for taxable years ending after  
11          April 11, 2005.

## 12           **Subtitle B—Transportation** 13           **Incentives**

### 14          **SEC. 511. ALTERNATIVE MOTOR VEHICLE CREDIT.**

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

### 18          **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

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

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

24                         “(2) the new qualified hybrid motor vehicle  
25          credit determined under subsection (c).

1       “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE  
2 CREDIT.—

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

8           “(A) \$8,000 (\$4,000 in the case of vehicles  
9 placed in service after December 31, 2009), if  
10 such vehicle has a gross vehicle weight rating of  
11 not more than 8,500 pounds,

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

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

18           “(D) \$40,000, if such vehicle has a gross  
19 vehicle weight rating of more than 26,000  
20 pounds.

21       “(2) INCREASE FOR FUEL EFFICIENCY.—

22           “(A) IN GENERAL.—The amount deter-  
23 mined under paragraph (1)(A) with respect to  
24 a new qualified fuel cell motor vehicle which is

1 a passenger automobile or light truck shall be  
2 increased by—

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

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

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

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

19 “(v) \$3,000, if such vehicle achieves  
20 at least 250 percent but less than 275 per-  
21 cent of the 2002 model year city fuel econ-  
22 omy,

23 “(vi) \$3,500, if such vehicle achieves  
24 at least 275 percent but less than 300 per-

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

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

6 “(B) 2002 MODEL YEAR CITY FUEL ECON-  
7 OMY.—For purposes of subparagraph (A), the  
8 2002 model year city fuel economy with respect  
9 to a vehicle shall be determined in accordance  
10 with the following tables:

11 “(i) In the case of a passenger auto-  
12 mobile:

<b>“If vehicle inertia weight class is:</b>	<b>The 2002 model year city fuel economy is:</b>
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.

13 “(ii) In the case of a light truck:

<b>“If vehicle inertia weight class is:</b>	<b>The 2002 model year city fuel economy is:</b>
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

<b>“If vehicle inertia weight class is:</b>	<b>The 2002 model year city fuel economy is:</b>
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.

1                   “(C) VEHICLE INERTIA WEIGHT CLASS.—

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

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

13                   “(A) which is propelled by power derived  
 14                   from one or more cells which convert chemical  
 15                   energy directly into electricity by combining ox-  
 16                   ygen with hydrogen fuel which is stored on  
 17                   board the vehicle in any form and may or may  
 18                   not require reformation prior to use,

19                   “(B) which, in the case of a passenger  
 20                   automobile or light truck, has received a certifi-  
 21                   cate that such vehicle meets or exceeds the Bin

1           5 Tier II emission level established in regula-  
2           tions prescribed by the Administrator of the  
3           Environmental Protection Agency under section  
4           202(i) of the Clean Air Act for that make and  
5           model year vehicle,

6                   “(C) the original use of which commences  
7           with the taxpayer,

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

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

11           “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE  
12 CREDIT.—

13                   “(1) IN GENERAL.—For purposes of subsection  
14           (a), the new qualified hybrid motor vehicle credit de-  
15           termined under this subsection with respect to a new  
16           qualified hybrid motor vehicle placed in service by  
17           the taxpayer during the taxable year is the credit  
18           amount determined under paragraph (2).

19                   “(2) CREDIT AMOUNT.—

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

23                   “(i) In the case of a new qualified hy-  
24           brid motor vehicle which is a passenger  
25           automobile, medium duty passenger vehi-

1 cle, or light truck and which provides the  
 2 following percentage of the maximum  
 3 available power:

<b>“If percentage of the maximum available power is:</b>	<b>The credit amount is:</b>
At least 5 percent but less than 10 percent .....	\$250
At least 10 percent but less than 20 percent .....	\$500
At least 20 percent but less than 30 percent .....	\$750
At least 30 percent .....	\$1,000.

4 “(ii) In the case of a new qualified hy-  
 5 brid motor vehicle which is a heavy duty  
 6 hybrid motor vehicle and which provides  
 7 the following percentage of the maximum  
 8 available power:

9 “(I) If such vehicle has a gross  
 10 vehicle weight rating of not more than  
 11 14,000 pounds:

<b>“If percentage of the maximum available power is:</b>	<b>The credit amount is:</b>
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.

12 “(II) If such vehicle has a gross  
 13 vehicle weight rating of more than  
 14 14,000 but not more than 26,000  
 15 pounds:

<b>“If percentage of the maximum available power is:</b>	<b>The credit amount is:</b>
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.

1                   “(III) If such vehicle has a gross  
2                   vehicle weight rating of more than  
3                   26,000 pounds:

<b>“If percentage of the maximum available power is:</b>	<b>The credit amount is:</b>
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.

4                   “(B) INCREASE FOR FUEL EFFICIENCY.—

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

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

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

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

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

5           “(V) \$2,500, if such vehicle  
6 achieves at least 225 percent but less  
7 than 250 percent of the 2002 model  
8 year city fuel economy, and

9           “(VI) \$3,000, if such vehicle  
10 achieves at least 250 percent of the  
11 2002 model year city fuel economy.

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

21           “(C) INCREASE FOR ACCELERATED EMIS-  
22 SIONS PERFORMANCE.—The amount deter-  
23 mined under subparagraph (A)(ii) with respect  
24 to an applicable heavy duty hybrid motor vehi-  
25 cle shall be increased by the increased credit

1 amount determined in accordance with the fol-  
2 lowing tables:

3 “(i) In the case of a vehicle which has  
4 a gross vehicle weight rating of not more  
5 than 14,000 pounds:

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

6 “(ii) In the case of a vehicle which  
7 has a gross vehicle weight rating of more  
8 than 14,000 pounds but not more than  
9 26,000 pounds:

<b>“If the model year is:</b>	<b>The increased credit amount is:</b>
2005 .....	\$5,250
2006 .....	\$4,000.

10 “(iii) In the case of a vehicle which  
11 has a gross vehicle weight rating of more  
12 than 26,000 pounds:

<b>“If the model year is:</b>	<b>The increased credit amount is:</b>
2005 .....	\$8,000
2006 .....	\$6,000.

13 “(D) DEFINITIONS RELATING TO CREDIT  
14 AMOUNT.—

15 “(i) APPLICABLE HEAVY DUTY HY-  
16 BRID MOTOR VEHICLE.—For purposes of  
17 subparagraph (C), the term ‘applicable  
18 heavy duty hybrid motor vehicle’ means a  
19 heavy duty hybrid motor vehicle which is  
20 powered by an internal combustion or heat

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

8 “(ii) MAXIMUM AVAILABLE POWER.—

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

20 “(II) HEAVY DUTY HYBRID  
21 MOTOR VEHICLE.—For purposes of  
22 subparagraph (A)(ii), the term ‘max-  
23 imum available power’ means the  
24 maximum power available from the re-  
25 chargeable energy storage system,

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

13                  “(3) NEW QUALIFIED HYBRID MOTOR VEHI-  
14                  CLE.—For purposes of this subsection, the term  
15                  ‘new qualified hybrid motor vehicle’ means a motor  
16                  vehicle—

17                         “(A) which draws propulsion energy from  
18                         onboard sources of stored energy which are  
19                         both—

20                                 “(i) an internal combustion or heat  
21                                 engine using combustible fuel, and

22                                 “(ii) a rechargeable energy storage  
23                                 system,

24                                 “(B) which, in the case of a passenger  
25                                 automobile, medium duty passenger vehicle, or

1 light truck, has received a certificate that such  
2 vehicle meets or exceeds the Bin 5 Tier II emis-  
3 sion level established in regulations prescribed  
4 by the Administrator of the Environmental Pro-  
5 tection Agency under section 202(i) of the  
6 Clean Air Act for that make and model year ve-  
7 hicle,

8 “(C) which, in the case of a heavy duty hy-  
9 brid motor vehicle, the internal combustion or  
10 heat engine of which has received a certificate  
11 of conformity under the Clean Air Act as meet-  
12 ing the emission standards set in the regula-  
13 tions prescribed by the Administrator of the  
14 Environmental Protection Agency for 2004  
15 through 2007 model year diesel heavy duty en-  
16 gines or ottocycle heavy duty engines, as appli-  
17 cable,

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

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

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

23 “(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—

24 For purposes of this subsection, the term ‘heavy  
25 duty hybrid motor vehicle’ means a new qualified hy-

1       brid motor vehicle which has a gross vehicle weight  
2       rating of more than 8,500 pounds. Such term does  
3       not include a medium duty passenger vehicle.

4       “(d) APPLICATION WITH OTHER CREDITS.—The  
5       credit allowed under subsection (a) for any taxable year  
6       shall not exceed the excess (if any) of—

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

10              “(2) the tentative minimum tax for the taxable  
11       year.

12       “(e) OTHER DEFINITIONS AND SPECIAL RULES.—  
13       For purposes of this section—

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

18              “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
19       cle’ has the meaning given such term by section  
20       30(c)(2).

21              “(3) CITY FUEL ECONOMY.—The city fuel econ-  
22       omy with respect to any vehicle shall be measured in  
23       a manner which is substantially similar to the man-  
24       ner city fuel economy is measured in accordance  
25       with procedures under part 600 of subchapter Q of

1 chapter I of title 40, Code of Federal Regulations,  
2 as in effect on the date of the enactment of this sec-  
3 tion.

4 “(4) OTHER TERMS.—The terms ‘automobile’,  
5 ‘passenger automobile’, ‘medium duty passenger ve-  
6 hicle’, ‘light truck’, and ‘manufacturer’ have the  
7 meanings given such terms in regulations prescribed  
8 by the Administrator of the Environmental Protec-  
9 tion Agency for purposes of the administration of  
10 title II of the Clean Air Act (42 U.S.C. 7521 et  
11 seq.).

12 “(5) REDUCTION IN BASIS.—For purposes of  
13 this subtitle, the basis of any property for which a  
14 credit is allowable under subsection (a) shall be re-  
15 duced by the amount of such credit so allowed (de-  
16 termined without regard to subsection (e)).

17 “(6) NO DOUBLE BENEFIT.—The amount of  
18 any deduction or other credit allowable under this  
19 chapter—

20 “(A) for any incremental cost taken into  
21 account in computing the amount of the credit  
22 determined under subsection (d) shall be re-  
23 duced by the amount of such credit attributable  
24 to such cost, and

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

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

17          “(8) RECAPTURE.—The Secretary shall, by reg-  
18          ulations, provide for recapturing the benefit of any  
19          credit allowable under subsection (a) with respect to  
20          any property which ceases to be property eligible for  
21          such credit (including recapture in the case of a  
22          lease period of less than the economic life of a vehi-  
23          cle).

24          “(9) PROPERTY USED OUTSIDE UNITED  
25          STATES, ETC., NOT QUALIFIED.—No credit shall be

1 allowed under subsection (a) with respect to any  
2 property referred to in section 50(b) or with respect  
3 to the portion of the cost of any property taken into  
4 account under section 179.

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

9 “(11) CARRYBACK AND CARRYFORWARD AL-  
10 LOWED.—

11 “(A) IN GENERAL.—If the credit amount  
12 allowable under subsection (a) for a taxable  
13 year exceeds the amount of the limitation under  
14 subsection (e) for such taxable year (in this  
15 paragraph referred to as the ‘unused credit  
16 year’), such excess shall be allowed as a credit  
17 carryback for each of the 3 taxable years begin-  
18 ning after the date of the enactment of this sec-  
19 tion, which precede the unused credit year and  
20 a credit carryforward for each of the 20 taxable  
21 years which succeed the unused credit year.

22 “(B) RULES.—Rules similar to the rules of  
23 section 39 shall apply with respect to the credit  
24 carryback and credit carryforward under sub-  
25 paragraph (A).

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

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

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

15           “(f) REGULATIONS.—

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

20           “(2) COORDINATION IN PRESCRIPTION OF CER-  
21 TAIN REGULATIONS.—The Secretary of the Treas-  
22 ury, in coordination with the Secretary of Transpor-  
23 tation and the Administrator of the Environmental  
24 Protection Agency, shall prescribe such regulations  
25 as necessary to determine whether a motor vehicle

1 meets the requirements to be eligible for a credit  
2 under this section.

3 “(g) TERMINATION.—This section shall not apply to  
4 any property purchased after—

5 “(1) in the case of a new qualified fuel cell  
6 motor vehicle (as described in subsection (b)), De-  
7 cember 31, 2014, and

8 “(2) in the case of any other property, Decem-  
9 ber 31, 2010.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 1016(a) is amended by striking  
12 “and” at the end of paragraph (37), by striking the  
13 period at the end of paragraph (38) and inserting “,  
14 and”, and by adding at the end the following new  
15 paragraph:

16 “(39) to the extent provided in section  
17 30B(e)(5).”.

18 (2) Section 55(c)(2) is amended by inserting  
19 “30B(d),” after “30(b)(3)”.

20 (3) Section 6501(m) is amended by inserting  
21 “30B(e)(10),” after “30(d)(4),”.

22 (4) The table of sections for subpart B of part  
23 IV of subchapter A of chapter 1 is amended by in-  
24 serting after the item relating to section 30A the fol-  
25 lowing new item:

“30B. Alternative motor vehicle credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to property placed in service after  
 3 the date of the enactment of this Act, in taxable years  
 4 ending after such date.

## 5 **Subtitle C—Industry Incentives**

### 6 **SEC. 521. ENERGY CREDIT FOR COMBINED HEAT AND** 7 **POWER SYSTEM PROPERTY.**

8 (a) IN GENERAL.—Section 48(a)(3)(A) (defining en-  
 9 ergy property), as amended by this Act, is amended to  
 10 read as follows:

11 “(A) which is—

12 “(i) equipment used to produce, dis-  
 13 tribute, or use energy derived from a geo-  
 14 thermal deposit (within the meaning of  
 15 section 613(e)(2)), but only, in the case of  
 16 electricity generated by geothermal power,  
 17 up to (but not including) the electrical  
 18 transmission stage, or

19 “(ii) combined heat and power system  
 20 property,”.

21 (b) COMBINED HEAT AND POWER SYSTEM PROP-  
 22 erty.—Section 48 (relating to energy credit) is amended  
 23 by redesignating subsection (b) as paragraph (5) of sub-  
 24 section (a), by moving such paragraph (5) two ems to the

1 right, and by adding at the end the following new sub-  
2 section:

3 “(b) COMBINED HEAT AND POWER SYSTEM PROP-  
4 erty.—For purposes of subsection (a)(3)(A)(ii)—

5 “(1) COMBINED HEAT AND POWER SYSTEM  
6 PROPERTY.—The term ‘combined heat and power  
7 system property’ means property comprising a sys-  
8 tem—

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

15 “(B) which has an electrical capacity of  
16 not more than 15 megawatts or a mechanical  
17 energy capacity of not more than 2,000 horse-  
18 power or an equivalent combination of electrical  
19 and mechanical energy capacities,

20 “(C) which produces—

21 “(i) at least 20 percent of its total  
22 useful energy in the form of thermal en-  
23 ergy which is not used to produce electrical  
24 or mechanical power (or combination  
25 thereof), and

1                   “(ii) at least 20 percent of its total  
2                   useful energy in the form of electrical or  
3                   mechanical power (or combination thereof),

4                   “(D) the energy efficiency percentage of  
5                   which exceeds 60 percent, and

6                   “(E) which is placed in service before Jan-  
7                   uary 1, 2009.

8                   “(2) SPECIAL RULES.—

9                   “(A) ENERGY EFFICIENCY PERCENT-  
10                  AGE.—For purposes of this subsection, the en-  
11                  ergy efficiency percentage of a system is the  
12                  fraction—

13                   “(i) the numerator of which is the  
14                   total useful electrical, thermal, and me-  
15                   chanical power produced by the system at  
16                   normal operating rates, and expected to be  
17                   consumed in its normal application, and

18                   “(ii) the denominator of which is the  
19                   lower heating value of the fuel sources for  
20                   the system.

21                   “(B) DETERMINATIONS MADE ON BTU  
22                  BASIS.—The energy efficiency percentage and  
23                  the percentages under paragraph (1)(C) shall  
24                  be determined on a Btu basis.

1           “(C) INPUT AND OUTPUT PROPERTY NOT  
2 INCLUDED.—The term ‘combined heat and  
3 power system property’ does not include prop-  
4 erty used to transport the energy source to the  
5 facility or to distribute energy produced by the  
6 facility.

7           “(D) PUBLIC UTILITY PROPERTY.—

8           “(i) ACCOUNTING RULE FOR PUBLIC  
9 UTILITY PROPERTY.—If the combined heat  
10 and power system property is public utility  
11 property (as defined in section 168(i)(10)),  
12 the taxpayer may only claim the credit  
13 under subsection (a) if, with respect to  
14 such property, the taxpayer uses a normal-  
15 ization method of accounting.

16           “(ii) CERTAIN EXCEPTION NOT TO  
17 APPLY.—The matter in subsection (a)(3)  
18 which follows subparagraph (D) thereof  
19 shall not apply to combined heat and  
20 power system property.

21           “(E) NONAPPLICATION OF CERTAIN  
22 RULES.—For purposes of determining if the  
23 term ‘combined heat and power system prop-  
24 erty’ includes technologies which generate elec-  
25 tricity or mechanical power using back-pressure

1 steam turbines in place of existing pressure-re-  
2 ducing valves or which make use of waste heat  
3 from industrial processes such as by using or-  
4 ganic rankine, stirling, or kalina heat engine  
5 systems, paragraph (1) shall be applied without  
6 regard to subparagraphs (A), (C), and (D)  
7 thereof.”

8 “(3) SYSTEMS USING BAGASSE.—If a system is  
9 designed to use bagasse for at least 90 percent of  
10 the energy source—

11 “(A) paragraph (1)(D) shall not apply, but

12 “(B) the amount of credit determined  
13 under subsection (a) with respect to such sys-  
14 tem shall not exceed the amount which bears  
15 the same ratio to such amount of credit (deter-  
16 mined without regard to this paragraph) as the  
17 energy efficiency percentage of such system  
18 bears to 60 percent.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this subsection shall apply to periods after December 31,  
21 2005, in taxable years ending after such date, under rules  
22 similar to the rules of section 48(m) of the Internal Rev-  
23 enue Code of 1986 (as in effect on the day before the date

1 of the enactment of the Revenue Reconciliation Act of  
2 1990).

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