

505, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

S. 516

At the request of Mr. BUNNING, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 521

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 521, a bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes.

S. 522

At the request of Mr. CAMPBELL, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 522, a bill to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes.

S. 523

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 523, a bill to make technical corrections to law relating to Native Americans, and for other purposes.

S. 525

At the request of Mr. LEVIN, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 525, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 526

At the request of Mr. HATCH, the name of the Senator from Louisiana (Mr. BREAU) was added as a cosponsor of S. 526, a bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries.

S. 532

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 532, a bill to enhance the capacity of organizations working in the United States—Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias.

S. 555

At the request of Mr. CAMPBELL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 555, a bill to establish the Native American Health and Wellness Foundation, and for other purposes.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 582

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S.J. RES. 6

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S.J. Res. 6, a joint resolution expressing the sense of Congress with respect to planning the reconstruction of Iraq.

S. RES. 22

At the request of Mr. DORGAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 22, A resolution expressing the sense of the Senate regarding the implementation of the No Child Left Behind Act of 2001.

S. RES. 46

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 46, a resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

S. RES. 70

At the request of Mr. CRAIG, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. FITZGERALD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Oklahoma (Mr. NICKLES), the Senator from Oregon (Mr. SMITH), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 70, a resolution designating the week beginning March 16, 2003 as "National Safe Place Week".

S. RES. 70

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. Res. 70, *supra*.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 586. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce the Round II EZ/EC Flexibility Act of 2003. This important legislation would secure vital funding for Round II Empowerment Zones and Enterprise Communities to ensure that communities throughout the country will be able to continue the important work of economic revitalization.

This legislation promotes the continued economic development throughout the EZ/EC program, particularly to the 15 Round II urban and 5 rural empowerment zones that were designated in 1999. Each of those communities has implemented a host of strategic initiatives aimed at economic growth and job creation in their respective communities.

The EZ/EC Act ensures that Round II communities EZs and ECs are provided with funding they were promised upon designation. It also authorizes the use of EZ/EC grants as a match for related Federal programs, providing the EZ/EC program with maximum flexibility to implement initiatives at the local level.

The Enterprise Zone/Enterprise Community program was created to provide Federal assistance over ten years in designated urban and rural communities that would fuel economic revitalization and job growth. The program does so primarily by providing Federal grants to communities and tax and regulatory relief to help communities attract and retain businesses.

Unfortunately, an inequity now exists between the way Round I and Round II EZs and ECs have been funded. Those communities that won EZ designations in the initial round, in 1994, received full funding from the Congress, which made all grant awards available for use within the first two years of designation. However, EZs and ECs designated in Round II did not receive this same funding authority.

Federal benefits promised to the Round IIs included funding grants of \$100 million for each urban zone, \$40 million for each rural zone and about \$3 million for each Enterprise Community over a ten-year period beginning in 1999. In reliance on those "promised" funds, Round II zones prepared strategic plans for economic revitalization based on the availability of that funding. However, unlike Round I designees, who received a full funding up front, Round II zones have received a mere fraction of the funding promise.

The lack of a certain, predictable funding stream will ultimately undermine the ability of Round II EZs/ECs to effectively implement their economic growth strategies in their designated communities. And that's a shame, because the EZ/EC initiative has produced real results.

In fact, I'm proud to say that one of the best Round II EZs is located in Cumberland County, NJ. The Cumberland County Empowerment Zone, a collaborative effort of the communities of Bridgeton, Millville, Vineland and Port Norris, has been a model EZ, and committed all the funds made available to it by HUD.

Since the creation of the EZ, Cumberland County has witnessed more than 100 housing units rehabbed, renovated or newly built. A \$4 million loan pool has been created to fund community and small business reinvestment. The EZ also has led to the funding for over 60 economic development initiatives, utilizing more than \$11 million in funding to leverage \$120 million in private, public and tax exempt bond financing.

These are real results. In fact, over 1,100 new jobs will be created in the County over the next year and a half alone if the Federal Government were to maintain its commitment to the EZ/EC program.

Cumberland County is just one example of how the EZ/EC initiative has brought hope and promise to communities throughout America. We need to do more to support and build on these initiatives. Now is the time for Congress to fulfill the promise made to Round II EZs and ECs.

I urge my colleagues to cosponsor this bill that will allow communities throughout the country to continue their work of economic revitalization. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 586

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Round II EZ/EC Flexibility Act of 2003".

SEC. 2. CORRECTION OF INEQUITIES IN THE SECOND ROUND OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) GRANT AUTHORITY.—There are authorized to be appropriated—

(1) to the Secretary of Housing and Urban Development, such sums as may be necessary to make grant awards totaling \$100,000,000 to each of 15 urban empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986, taking into account any amount made available pursuant to any prior appropriation made for such zones; and

(2) to the Secretary of Agriculture, such sums as may be necessary to make—

(A) grant awards totaling \$40,000,000 to each of 5 rural empowerment zones designated pursuant to section 1391(g) of the Internal Revenue Code of 1986, taking into account any amount made available pursuant to any prior appropriation made for such zones; and

(B) grant awards totaling \$3,000,000 to each of 20 rural enterprise communities designated pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, taking into account any amount made available pursuant to any

prior appropriation made for such communities.

(b) AUTHORITY TO USE FUNDS TO IMPLEMENT STRATEGIC PLAN.—Funds appropriated under Federal law for an empowerment zone or an enterprise community referred to in subsection (a) may be used to implement the strategic plan for the zone or community, including—

- (1) economic development;
- (2) infrastructure development;
- (3) workforce development; and
- (4) community development activities.

(c) NO LOSS OF FEDERAL FUNDS BY REASON OF RECLASSIFICATION AS RENEWAL COMMUNITY.—An area that, by reason of section 1400E(e) of the Internal Revenue Code of 1986, ceases to be designated as an empowerment zone or enterprise community under section 1391(g) of such Code shall not lose any Federal funds by reason of the cessation.

(d) AUTHORITY TO USE FUNDS TO PAY NON-FEDERAL SHARE OF MATCHING GRANTS.—Funds appropriated under any Federal law for an empowerment zone or an enterprise community referred to in subsection (a) may be used to pay the non-Federal share required in connection with another Federal grant-in-aid program undertaken as part of activities assisted under this section.

By Mr. WYDEN:

S. 587. A bill to promote the use of hydrogen fuel cell vehicles, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, today, I am introducing the Hydrogen Transportation Wins Over Growing Reliance on Oil, H2 GROW, Act to accelerate getting cars and trucks powered by hydrogen on our roads as a way to reduce our Nation's dependence on foreign oil. In the House, Congressman CHRIS COX will also be introducing the H2 GROW Act, so we will have the first bipartisan, bicameral bill to provide incentives for commercializing hydrogen-powered cars and the fueling stations needed for hydrogen cars to have widespread acceptance.

Our legislation has the support of a diverse coalition of interest groups, ranging from the Natural Resources Defense Council to the automobile industry. It is not a coalition that naturally flocks together. In fact, on many environmental issues, these groups are skirmishing, not coalescing.

Just as these groups have come together, Congressman COX and I have felt, on a bipartisan basis, that he and I could find common ground on the critical issue of hydrogen fuel cells. Unlike some other proposals to promote hydrogen fuel cell vehicles, the H2 GROW Act goes beyond researching hydrogen to kickstart the market for hydrogen fuel cell vehicles and fueling equipment. Legislation he and I will introduce today, the H2 GROW Act, uses marketplace incentives so that a significant number of fuel cell vehicles can hit American streets in the next decade. In effect, our legislation goes beyond the popular wisdom that you can't do much to actually get these vehicles on the street anytime soon.

Our legislation stipulates that when someone opens a fueling station, sells fueling equipment, sells hydrogen fuel for use in vehicles, or buys a hydrogen

fuel cell vehicle, the tax man won't cometh for the next 10 years. By creating incentives this way, our legislation, can catalyze commercialization of fuel cell vehicles. Tax holidays and tax incentives will stimulate a private market for everything from creating the infrastructure needed for fuel cell vehicles, to direct incentives for American consumers.

By using this approach, our legislation only pays for performance. It does not subsidize research that may or may not advance the goal of getting hydrogen-powered cars on the road. The tax credits and other incentives only reward actions that actually put cars on the road or fueling equipment in use.

Best of all, the price tag is minimal. The government isn't expecting any significant revenue from fuel cell vehicles anyway in the next 10 years—and that's the life of our bill. So there's no enormous cost to the government.

Congress has a clear choice between taking 20 years to get a significant number of hydrogen vehicles on the road and making real, measurable progress in the next 10 years. In my view, reducing this country's dependence on foreign oil is a national security priority. At a time when more than half our energy is imported, enacting policies that promote energy independence is a true act of patriotism. Our legislation would promote that energy independence.

Here are two examples of how our legislation provides critically needed incentives for the fuel cell market:

Congressman COX and I want to make it worth the consumer's while to buy a fuel cell vehicle in the first place. So a tax credit will help make up the difference between the cost of a gasoline-powered vehicle and a fuel cell car. For example, if in 2009, a consumer buys a fuel cell car for \$25,000, the consumer can write \$3,750 off his or her taxes to make the fuel cell car more affordable.

To help gasoline stations begin to shift to serving consumers with hydrogen fuel cell vehicles, our bill provides a 20-percent tax credit for every unit of hydrogen fuel sold equivalent to a gallon of gasoline.

The bill also helps taxpayers get the most of the fuel cell vehicle in terms of convenience and ease of use. With hydrogen fuel cells, filling up your car could be something you do at your home or your office as well as a retail filling station. So our bill gives taxpayers who install hydrogen fueling equipment in their homes a tax credit for up to 50 percent of the cost of the refueling equipment.

In my view, these are practical steps away from our reliance on foreign oil and toward better, cleaner transportation for all Americans. I also believe this plan is the best, most effective use of taxpayer dollars on this issue.

Companies like GM and Toyota—two car companies that are endorsing the H2 GROW Act—are already developing the technology to improve the performance and reduce the cost of fuel cell vehicles with more reliable, affordable

materials. These companies are already putting the money and time into that effort. What Congress needs to do is help the American people and American businesses take advantage of these new products as they're perfected, and help them hit the streets as quickly as possible.

I firmly believe the H2 GROW Act is a strong step toward helping consumers to shore up this Nation's economic and environmental stability for future generations. I know Congressman COX feels the same way, and I encourage my colleagues to support our bipartisan legislation to accelerate commercialization of hydrogen fuel cell cars and help reduce our Nation's dependence on foreign oil.

By Mr. ROCKEFELLER (for himself, Mr. CORZINE, Mr. INOUE, Ms. LANDRIEU, Mr. LEVIN, Mr. REED, and Mr. SARBANES):

S. 588. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2004; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased and proud to introduce the MediKids Health Insurance Act of 2003. Congressman STARK is introducing a companion bill in the House.

This legislation is, without a doubt, ambitious. It is a deliberate effort to try to ignite a national commitment to the goal of insuring all of our children. For some, that is an idealistic proposition that does not seem achievable. With this bill, I want to call on the public and my colleagues to consider once again the clear and convincing case for investing the necessary resources in the health of our children—and therefore, in the well-being of their families and our entire country. The President and Congress continue to talk about their commitment to America's health. This bill challenges them to take action on their rhetoric.

Our children are not only our future, they are also our present. What we do for them today will greatly affect what happens tomorrow. Yet even though we recognize these facts, we still have not found a way to guarantee health coverage for children. Without health insurance, many of these children go without health care all together.

Children are the least expensive segment of our population to insure. They are also the least able to have control over whether or not they have health insurance. Yet we now have over 9 million uninsured children in this country. And with the downturn in the economy and the rising costs of health care, this number will continue rising.

Our success in expanding Medicaid and passing the State Children's Health Insurance Program was a meaningful, significant start at closing the tragic gap represented by millions of uninsured children. However, Congress cannot point to these programs and declare that our work is done. We still have much more to do. The percent of

children in low-income families without health insurance has not changed in recent years. Even with perfect enrollment in S-CHIP and Medicaid, there would still be a great number of children without health insurance.

This is partially due to our increasingly mobile society, where parents frequently change jobs and families often move from State to State. When this occurs there is often a lapse in health coverage. Also, families working their way out of welfare fluctuate between eligibility and ineligibility for means-tested assistance programs. Another reason for the number of uninsured children is that the cost of health insurance continues to increase, leaving many working parents unable to afford coverage for themselves or their families. All of this adds up to the fact that many of our children do not have the consistent and regular access to health care which they need to grow up healthy.

That is why I am re-introducing the MediKids Health Insurance Act. This bill would automatically enroll every child at birth into a new, comprehensive Federal safety net health insurance program beginning in 2004. The benefits would be tailored to the needs of children and would be similar to those currently available to children under Medicaid. A small monthly premium would be collected from parents at tax filing, with discounts to low-income families phasing out at 300 percent of poverty. The children would remain enrolled in MediKids throughout childhood. When they are covered by another health insurance program, their parents would be exempt from the premium. The key to our program is that whenever other sources of health insurance fail, MediKids would stand ready to cover the health needs of our next generation. By the year 2020, every child in America would be able to grow up with consistent, continuous health insurance coverage.

Like Medicare, MediKids would be independently financed, would cover benefits tailored to the needs of its target population, and would have the goal of achieving nearly 100 percent health insurance coverage for the children of this country—just as Medicare has done for our Nation's seniors and disabled population. It's time we make this investment in the future of America by guaranteeing all children the health coverage they need to make a healthy start in life.

The MediKids Health Insurance Act would offer guaranteed, automatic health coverage for every child with the simplest of enrollment procedures and no challenging outreach, paperwork, or re-determination hoops to jump through. It would be able to follow children across state lines, or tide them over in a new location until their parents can enroll them in a new insurance program. Between jobs or during family crises such as divorce or the death of a parent, it would offer extra security and ensure continuous health

coverage to the Nation's children. During that critical period when a family is just climbing out of poverty and out of the eligibility range for means-tested assistance programs, it would provide an extra boost with health insurance for the children until the parents can move into jobs that provide reliable health insurance coverage. And every child would automatically be enrolled upon birth, along with the issuance of the birth certificate or immigration card.

As we all know, an ounce of prevention is worth a pound of cure. Providing health care coverage to children affects much more than their health—it affects their ability to learn, their ability to thrive, and their ability to become a productive member of society. I look forward to working with my colleagues and supporting organizations for the passage of the MediKids Health Insurance Act of 2003 to guarantee every child in America the health coverage they need to grow up healthy.

I stand before you today to deliver a message. That it is time to rekindle the discussion about how we are going to provide health insurance for all Americans. The bill I am introducing today—the MediKids Health Insurance Act of 2003—is a step toward eliminating the irrational and tragic lack of health insurance for so many children and adults in our country.

Partial solutions to America's "uninsured crisis" lie before Congress, and I recognize the sense of realism and care that are the basis for proposing incremental steps towards universal coverage. As someone involved in the tough battles in years past to achieve universal coverage, I will continue to do all I can to make whatever progress can be made each and every year.

But I also believe it is important to not lose sight of the ideal—and our capacity to reach that ideal—of the United States of America joining every other industrialized nation by ensuring that its citizens have basic health insurance. Until we succeed, millions of children and adults will suffer human and financial costs that are preventable.

Therefore, I offer this legislation to both enlist my colleagues in an effort to insist that all of our Nation's children are insured as quickly as possible and to lay out the steps that would achieve that goal. Some may say that we cannot afford this level of commitment to America's children in a time of war and economic downturn. I strongly disagree. We can fully fund MediKids with the more than \$388 billion the President's budget proposes to spend on the dividend tax cut. I believe that choice is clear between providing 100 percent of our children with health care coverage and giving tax breaks to the wealthiest 2 percent of people in our country. I hope this bill will help to build the will and momentum so desperately needed by our children for action that will change their lives and

strengthen our Nation. I ask my colleagues from both sides of the aisle to join as co-sponsors.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 588

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

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

(a) **SHORT TITLE.**—This Act may be cited as the “MediKids Health Insurance Act of 2003”.

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

Sec. 1. Short title; table of contents; findings.

Sec. 2. Benefits for all children born after 2004.

“TITLE XXII—MEDIKIDS PROGRAM

“Sec. 2201. Eligibility.

“Sec. 2202. Benefits.

“Sec. 2203. Premiums.

“Sec. 2204. MediKids Trust Fund.

“Sec. 2205. Oversight and accountability.

“Sec. 2206. Addition of care coordination services.

“Sec. 2207. Administration and miscellaneous.

Sec. 3. MediKids premium.

Sec. 4. Refundable credit for cost-sharing expenses under MediKids program.

Sec. 5. Report on long-term revenues.

(c) **FINDINGS.**—Congress finds the following:

(1) More than 9 million American children are uninsured.

(2) Children who are uninsured receive less medical care and less preventive care and have a poorer level of health, which result in lifetime costs to themselves and to the entire American economy.

(3) Although SCHIP and Medicaid are successfully extending a health coverage safety net to a growing portion of the vulnerable low-income population of uninsured children, they alone cannot achieve 100 percent health insurance coverage for our nation’s children due to inevitable gaps during outreach and enrollment, fluctuations in eligibility, variations in access to private insurance at all income levels, and variations in States’ ability to provide required matching funds.

(4) As all segments of society continue to become more transient, with many changes in employment over the working lifetime of parents, the need for a reliable safety net of health insurance which follows children across State lines, already a major problem for the children of migrant and seasonal farmworkers, will become a major concern for all families in the United States.

(5) The medicare program has successfully evolved over the years to provide a stable, universal source of health insurance for the nation’s disabled and those over age 65, and provides a tested model for designing a program to reach out to America’s children

(6) The problem of insuring 100 percent of all American children could be gradually solved by automatically enrolling all children born after December 31, 2004, in a program modeled after Medicare (and to be known as “MediKids”), and allowing those children to be transferred into other equivalent or better insurance programs, including either private insurance, SCHIP, or Medicaid, if they are eligible to do so, but maintaining the child’s default enrollment in MediKids for any times when the child’s access to other sources of insurance is lost.

(7) A family’s freedom of choice to use other insurers to cover children would not be interfered with in any way, and children eligible for SCHIP and Medicaid would continue to be enrolled in those programs, but the underlying safety net of MediKids would always be available to cover any gaps in insurance due to changes in medical condition, employment, income, or marital status, or other changes affecting a child’s access to alternate forms of insurance.

(8) The MediKids program can be administered without impacting the finances or status of the existing Medicare program.

(9) The MediKids benefit package can be tailored to the special needs of children and updated over time.

(10) The financing of the program can be administered without difficulty by a yearly payment of affordable premiums through a family’s tax filing (or adjustment of a family’s earned income tax credit).

(11) The cost of the program will gradually rise as the number of children using MediKids as the insurer of last resort increases, and a future Congress always can accelerate or slow down the enrollment process as desired, while the societal costs for emergency room usage, lost productivity and work days, and poor health status for the next generation of Americans will decline.

(12) Over time 100 percent of American children will always have basic health insurance, and we can therefore expect a healthier, more equitable, and more productive society.

SEC. 2. BENEFITS FOR ALL CHILDREN BORN AFTER 2004.

(a) **IN GENERAL.**—The Social Security Act is amended by adding at the end the following new title:

“TITLE XXII—MEDIKIDS PROGRAM

“**SEC. 2201. ELIGIBILITY.**

“(a) **ELIGIBILITY OF INDIVIDUALS BORN AFTER DECEMBER 31, 2004; ALL CHILDREN UNDER 23 YEARS OF AGE IN SIXTH YEAR.**—An individual who meets the following requirements with respect to a month is eligible to enroll under this title with respect to such month:

“(1) **AGE.**—

“(A) **FIRST YEAR.**—During the first year in which this title is effective, the individual has not attained 6 years of age.

“(B) **SECOND YEAR.**—During the second year in which this title is effective, the individual has not attained 11 years of age.

“(C) **THIRD YEAR.**—During the third year in which this title is effective, the individual has not attained 16 years of age.

“(D) **FOURTH YEAR.**—During the fourth year in which this title is effective, the individual has not attained 21 years of age.

“(E) **FIFTH AND SUBSEQUENT YEARS.**—During the fifth year in which this title is effective and each subsequent year, the individual has not attained 23 years of age.

“(2) **CITIZENSHIP.**—The individual is a citizen or national of the United States or is permanently residing in the United States under color of law.

“(b) **ENROLLMENT PROCESS.**—An individual may enroll in the program established under this title only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

“(1) individuals who are born in the United States after December 31, 2004, are deemed to be enrolled at the time of birth and a parent or guardian of such an individual is permitted to pre-enroll in the month prior to the expected month of birth;

“(2) individuals who are born outside the United States after such date and who be-

come eligible to enroll by virtue of immigration into (or an adjustment of immigration status in) the United States are deemed enrolled at the time of entry or adjustment of status;

“(3) eligible individuals may otherwise be enrolled at such other times and manner as the Secretary shall specify, including the use of outstationed eligibility sites as described in section 1902(a)(55)(A) and the use of presumptive eligibility provisions like those described in section 1920A; and

“(4) at the time of automatic enrollment of a child, the Secretary provides for issuance to a parent or custodian of the individual a card evidencing coverage under this title and for a description of such coverage.

The provisions of section 1837(h) apply with respect to enrollment under this title in the same manner as they apply to enrollment under part B of title XVIII.

“(c) **DATE COVERAGE BEGINS.**—

“(1) **IN GENERAL.**—The period during which an individual is entitled to benefits under this title shall begin as follows, but in no case earlier than January 1, 2005:

“(A) In the case of an individual who is enrolled under paragraph (1) or (2) of subsection (b), the date of birth or date of obtaining appropriate citizenship or immigration status, as the case may be.

“(B) In the case of an another individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under subsection (a), the first day of such month of eligibility.

“(C) In the case of an another individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such subsection, the first day of the following month.

“(2) **AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.**—Under regulations, the Secretary may, in the Secretary’s discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

“(3) **LIMITATION ON PAYMENTS.**—No payments may be made under this title with respect to the expenses of an individual enrolled under this title unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

“(d) **EXPIRATION OF ELIGIBILITY.**—An individual’s coverage period under this part shall continue until the individual’s enrollment has been terminated because the individual no longer meets the requirements of subsection (a) (whether because of age or change in immigration status).

“(e) **ENTITLEMENT TO MEDIKIDS BENEFITS FOR ENROLLED INDIVIDUALS.**—An individual enrolled under this section is entitled to the benefits described in section 2202.

“(f) **LOW-INCOME INFORMATION.**—At the time of enrollment of a child under this title, the Secretary shall make an inquiry as to whether or not the family income of the family that includes the child is less than 150 percent of the poverty line for a family of the size involved. If the family income is below such level, the Secretary shall encode in the identification card issued in connection with eligibility under this title a code indicating such fact. The Secretary also shall provide for a toll-free telephone line at which providers can verify whether or not such a child is in a family the income of which is below such level.

“(g) **CONSTRUCTION.**—Nothing in this title shall be construed as requiring (or preventing) an individual who is enrolled under this section from seeking medical assistance under a State medicaid plan under title XIX or child health assistance under a State child health plan under title XXI.

“SEC. 2202. BENEFITS.

“(a) SECRETARIAL SPECIFICATION OF BENEFIT PACKAGE.—

“(1) IN GENERAL.—The Secretary shall specify the benefits to be made available under this title consistent with the provisions of this section and in a manner designed to meet the health needs of enrollees.

“(2) UPDATING.—The Secretary shall update the specification of benefits over time to ensure the inclusion of age-appropriate benefits to reflect the enrollee population.

“(3) ANNUAL UPDATING.—The Secretary shall establish procedures for the annual review and updating of such benefits to account for changes in medical practice, new information from medical research, and other relevant developments in health science.

“(4) INPUT.—The Secretary shall seek the input of the pediatric community in specifying and updating such benefits.

“(5) LIMITATION ON UPDATING.—In no case shall updating of benefits under this subsection result in a failure to provide benefits required under subsection (b).

“(b) INCLUSION OF CERTAIN BENEFITS.—

“(1) MEDICARE CORE BENEFITS.—Such benefits shall include (to the extent consistent with other provisions of this section) at least the same benefits (including coverage, access, availability, duration, and beneficiary rights) that are available under parts A and B of title XVIII.

“(2) ALL REQUIRED MEDICAID BENEFITS.—Such benefits shall also include all items and services for which medical assistance is required to be provided under section 1902(a)(10)(A) to individuals described in such section, including early and periodic screening, diagnostic services, and treatment services.

“(3) INCLUSION OF PRESCRIPTION DRUGS.—Such benefits also shall include (as specified by the Secretary) prescription drugs and biologicals.

“(4) COST-SHARING.—

“(A) IN GENERAL.—Subject to subparagraph (B), such benefits also shall include the cost-sharing (in the form of deductibles, coinsurance, and copayments) applicable under title XVIII with respect to comparable items and services, except that no cost-sharing shall be imposed with respect to early and periodic screening and diagnostic services included under paragraph (2).

“(B) NO COST-SHARING FOR LOWEST INCOME CHILDREN.—Such benefits shall not include any cost-sharing for children in families the income of which (as determined for purposes of section 1905(p)) does not exceed 150 percent of the official income poverty line (referred to in such section) applicable to a family of the size involved.

“(C) REFUNDABLE CREDIT FOR COST-SHARING FOR OTHER LOW-INCOME CHILDREN.—For a refundable credit for cost-sharing in the case of children in certain families, see section 35 of the Internal Revenue Code of 1986.

“(c) PAYMENT SCHEDULE.—The Secretary, with the assistance of the Medicare Payment Advisory Commission, shall develop and implement a payment schedule for benefits covered under this title. To the extent feasible, such payment schedule shall be consistent with comparable payment schedules and reimbursement methodologies applied under parts A and B of title XVIII.

“(d) INPUT.—The Secretary shall specify such benefits and payment schedules only after obtaining input from appropriate child health providers and experts.

“(e) ENROLLMENT IN HEALTH PLANS.—The Secretary shall provide for the offering of benefits under this title through enrollment in a health benefit plan that meets the same (or similar) requirements as the requirements that apply to Medicare+Choice plans

under part C of title XVIII. In the case of individuals enrolled under this title in such a plan, the Medicare+Choice capitation rate described in section 1853(c) shall be adjusted in an appropriate manner to reflect differences between the population served under this title and the population under title XVIII.

“SEC. 2203. PREMIUMS.

“(a) AMOUNT OF MONTHLY PREMIUMS.—

“(1) IN GENERAL.—The Secretary shall, during September of each year (beginning with 2004), establish a monthly MediKids premium for the following year. Subject to paragraph (2), the monthly MediKids premium for a year is equal to 1/2 of the annual premium rate computed under subsection (b).

“(2) ELIMINATION OF MONTHLY PREMIUM FOR DEMONSTRATION OF EQUIVALENT COVERAGE (INCLUDING COVERAGE UNDER LOW-INCOME PROGRAMS).—The amount of the monthly premium imposed under this section for an individual for a month shall be zero in the case of an individual who demonstrates to the satisfaction of the Secretary that the individual has basic health insurance coverage for that month. For purposes of the previous sentence enrollment in a medicaid plan under title XIX, a State child health insurance plan under title XXI, or under the medicare program under title XVIII is deemed to constitute basic health insurance coverage described in such sentence.

“(b) ANNUAL PREMIUM.—

“(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 2201(a)(1) as if all such individuals were eligible for (and enrolled under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

“(2) ANNUAL PREMIUM.—Subject to subsection (d), the annual premium under this subsection for months in a year is equal to 25 percent of the average, annual per capita amount estimated under paragraph (1) for the year.

“(c) PAYMENT OF MONTHLY PREMIUM.—

“(1) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, subject to subsection (d), the monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

“(2) COLLECTION THROUGH TAX RETURN.—For provisions providing for the payment of monthly premiums under this subsection, see section 59B of the Internal Revenue Code of 1986.

“(3) PROTECTIONS AGAINST FRAUD AND ABUSE.—The Secretary shall develop, in coordination with States and other health insurance issuers, administrative systems to ensure that claims which are submitted to more than one payor are coordinated and duplicate payments are not made.

“(d) REDUCTION IN PREMIUM FOR CERTAIN LOW-INCOME FAMILIES.—For provisions reducing the premium under this section for certain low-income families, see section 59B(c) of the Internal Revenue Code of 1986.

“SEC. 2204. MEDIKIDS TRUST FUND.

“(a) ESTABLISHMENT OF TRUST FUND.—

“(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the ‘MediKids Trust Fund’ (in this section referred to as the ‘Trust Fund’). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be depos-

ited in, or appropriated to, such fund as provided in this title.

“(2) PREMIUMS.—Premiums collected under section 2203 shall be transferred to the Trust Fund.

“(b) INCORPORATION OF PROVISIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

“(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

“(A) any reference in such section to ‘this part’ is construed to refer to title XXII;

“(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this title;

“(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this title; and

“(D) the Board of Trustees of the MediKids Trust Fund shall be the same as the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund.

“SEC. 2205. OVERSIGHT AND ACCOUNTABILITY.

“(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the MediKids Trust Fund under section 2204(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this title to maintain financial solvency of the program under this title.

“(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this title. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this title.

“SEC. 2206. INCLUSION OF CARE COORDINATION SERVICES.

“(a) IN GENERAL.—

“(1) PROGRAM AUTHORITY.—The Secretary, beginning in 2005, may implement a care coordination services program in accordance with the provisions of this section under which, in appropriate circumstances, eligible individuals may elect to have health care services covered under this title managed and coordinated by a designated care coordinator.

“(2) ADMINISTRATION BY CONTRACT.—The Secretary may administer the program under this section through a contract with an appropriate program administrator.

“(3) COVERAGE.—Care coordination services furnished in accordance with this section shall be treated under this title as if they were included in the definition of medical and other health services under section 1861(s) and benefits shall be available under this title with respect to such services without the application of any deductible or coinsurance.

“(b) ELIGIBILITY CRITERIA; IDENTIFICATION AND NOTIFICATION OF ELIGIBLE INDIVIDUALS.—

“(1) INDIVIDUAL ELIGIBILITY CRITERIA.—The Secretary shall specify criteria to be used in making a determination as to whether an individual may appropriately be enrolled in the care coordination services program under this section, which shall include at least a finding by the Secretary that for cohorts of individuals with characteristics

identified by the Secretary, professional management and coordination of care can reasonably be expected to improve processes or outcomes of health care and to reduce aggregate costs to the programs under this title.

“(2) PROCEDURES TO FACILITATE ENROLLMENT.—The Secretary shall develop and implement procedures designed to facilitate enrollment of eligible individuals in the program under this section.

“(c) ENROLLMENT OF INDIVIDUALS.—

“(1) SECRETARY’S DETERMINATION OF ELIGIBILITY.—The Secretary shall determine the eligibility for services under this section of individuals who are enrolled in the program under this section and who make application for such services in such form and manner as the Secretary may prescribe.

“(2) ENROLLMENT PERIOD.—

“(A) EFFECTIVE DATE AND DURATION.—Enrollment of an individual in the program under this section shall be effective as of the first day of the month following the month in which the Secretary approves the individual’s application under paragraph (1), shall remain in effect for one month (or such longer period as the Secretary may specify), and shall be automatically renewed for additional periods, unless terminated in accordance with such procedures as the Secretary shall establish by regulation. Such procedures shall permit an individual to disenroll for cause at any time and without cause at re-enrollment intervals.

“(B) LIMITATION ON REENROLLMENT.—The Secretary may establish limits on an individual’s eligibility to reenroll in the program under this section if the individual has disenrolled from the program more than once during a specified time period.

“(d) PROGRAM.—The care coordination services program under this section shall include the following elements:

“(1) BASIC CARE COORDINATION SERVICES.—

“(A) IN GENERAL.—Subject to the cost-effectiveness criteria specified in subsection (b)(1), except as otherwise provided in this section, enrolled individuals shall receive services described in section 1905(t)(1) and may receive additional items and services as described in subparagraph (B).

“(B) ADDITIONAL BENEFITS.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to individuals enrolled in the program under this section (subject to an assessment by the care coordinator of an individual’s circumstance and need for such benefits) in order to encourage enrollment in, or to improve the effectiveness of, such program.

“(2) CARE COORDINATION REQUIREMENT.—Notwithstanding any other provision of this title, the Secretary may provide that an individual enrolled in the program under this section may be entitled to payment under this title for any specified health care items or services only if the items or services have been furnished by the care coordinator, or coordinated through the care coordination services program. Under such provision, the Secretary shall prescribe exceptions for emergency medical services as described in section 1852(d)(3), and other exceptions determined by the Secretary for the delivery of timely and needed care.

“(e) CARE COORDINATORS.—

“(1) CONDITIONS OF PARTICIPATION.—In order to be qualified to furnish care coordination services under this section, an individual or entity shall—

“(A) be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) meeting such conditions as the Secretary may specify;

“(B) have entered into a care coordination agreement; and

“(C) meet such criteria as the Secretary may establish (which may include experience in the provision of care coordination or primary care physician’s services).

“(2) AGREEMENT TERM; PAYMENT.—

“(A) DURATION AND RENEWAL.—A care coordination agreement under this subsection shall be for one year and may be renewed if the Secretary is satisfied that the care coordinator continues to meet the conditions of participation specified in paragraph (1).

“(B) PAYMENT FOR SERVICES.—The Secretary may negotiate or otherwise establish payment terms and rates for services described in subsection (d)(1).

“(C) LIABILITY.—Case coordinators shall be subject to liability for actual health damages which may be suffered by recipients as a result of the care coordinator’s decisions, failure or delay in making decisions, or other actions as a care coordinator.

“(D) TERMS.—In addition to such other terms as the Secretary may require, an agreement under this section shall include the terms specified in subparagraphs (A) through (C) of section 1905(t)(3).

“SEC. 2207. ADMINISTRATION AND MISCELLANEOUS.

“(a) IN GENERAL.—Except as otherwise provided in this title—

“(1) the Secretary shall enter into appropriate contracts with providers of services, other health care providers, carriers, and fiscal intermediaries, taking into account the types of contracts used under title XVIII with respect to such entities, to administer the program under this title;

“(2) individuals enrolled under this title shall be treated for purposes of title XVIII as though the individual were entitled to benefits under part A and enrolled under part B of such title;

“(3) benefits described in section 2202 that are payable under this title to such individuals shall be paid in a manner specified by the Secretary (taking into account, and based to the greatest extent practicable upon, the manner in which they are provided under title XVIII);

“(4) provider participation agreements under title XVIII shall apply to enrollees and benefits under this title in the same manner as they apply to enrollees and benefits under title XVIII; and

“(5) individuals entitled to benefits under this title may elect to receive such benefits under health plans in a manner, specified by the Secretary, similar to the manner provided under part C of title XVIII.

“(b) COORDINATION WITH MEDICAID AND SCHIP.—Notwithstanding any other provision of law, individuals entitled to benefits for items and services under this title who also qualify for benefits under title XIX or XXI or any other Federally funded program may continue to qualify and obtain benefits under such other title or program, and in such case such an individual shall elect either—

“(1) such other title or program to be primary payor to benefits under this title, in which case no benefits shall be payable under this title and the monthly premium under section 2203 shall be zero; or

“(2) benefits under this title shall be primary payor to benefits provided under such program or title, in which case the Secretary shall enter into agreements with States as may be appropriate to provide that, in the case of such individuals, the benefits under titles XIX and XXI or such other program (including reduction of cost-sharing) are provided on a ‘wrap-around’ basis to the benefits under this title.”

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking “or the Federal Supplementary Medical Insurance Trust Fund” and inserting “the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund”.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking “and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII” and inserting “, the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund established by title XVIII”.

(3) Section 1853(c) of such Act (42 U.S.C. 1395w-23(c)) is amended—

(A) in paragraph (1), by striking “or (7)” and inserting “, (7), or (8)”, and

(B) by adding at the end the following:

“(8) ADJUSTMENT FOR MEDIKIDS.—In applying this subsection with respect to individuals entitled to benefits under title XXII, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such title and the population under parts A and B.”

(c) MAINTENANCE OF MEDICAID ELIGIBILITY AND BENEFITS FOR CHILDREN.—

(1) IN GENERAL.—In order for a State to continue to be eligible for payments under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a))—

(A) the State may not reduce standards of eligibility, or benefits, provided under its State medicaid plan under title XIX of the Social Security Act or under its State child health plan under title XXI of such Act for individuals under 23 years of age below such standards of eligibility, and benefits, in effect on the date of the enactment of this Act; and

(B) the State shall demonstrate to the satisfaction of the Secretary of Health and Human Services that any savings in State expenditures under title XIX or XXI of the Social Security Act that results from children from enrolling under title XXII of such Act shall be used in a manner that improves services to beneficiaries under title XIX of such Act, such as through increases in provider payment rates, expansion of eligibility, improved nurse and nurse aide staffing and improved inspections of nursing facilities, and coverage of additional services.

(2) MEDIKIDS AS PRIMARY PAYOR.—In applying title XIX of the Social Security Act, the MediKids program under title XXII of such Act shall be treated as a primary payor in cases in which the election described in section 2207(b)(2) of such Act, as added by subsection (a), has been made.

(d) EXPANSION OF MEDPAC MEMBERSHIP TO 19.—

(1) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b-6(c)) is amended—

(A) in paragraph (1), by striking “17” and inserting “19”; and

(B) in paragraph (2)(B), by inserting “experts in children’s health,” after “other health professionals.”

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b-6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under subsection (a)(1) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2004.

SEC. 3. MEDIKIDS PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

“PART VIII—MEDIKIDS PREMIUM

“Sec. 59B. MediKIDS premium.

“SEC. 59B. MEDIKIDS PREMIUM.

“(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other tax imposed by this subtitle) a MediKIDS premium for the taxable year.

“(b) INDIVIDUALS SUBJECT TO PREMIUM.—

“(1) IN GENERAL.—This section shall apply to an individual if the taxpayer has a MediKid at any time during the taxable year.

“(2) MEDIKID.—For purposes of this section, the term ‘MediKid’ means, with respect to a taxpayer, any individual with respect to whom the taxpayer is required to pay a premium under section 2203(c) of the Social Security Act for any month of the taxable year.

“(c) AMOUNT OF PREMIUM.—For purposes of this section, the MediKIDS premium for a taxable year is the sum of the monthly premiums under section 2203 of the Social Security Act for months in the taxable year.

“(d) EXCEPTIONS BASED ON ADJUSTED GROSS INCOME.—

“(1) EXEMPTION FOR VERY LOW-INCOME TAXPAYERS.—

“(A) IN GENERAL.—No premium shall be imposed by this section on any taxpayer having an adjusted gross income not in excess of the exemption amount.

“(B) EXEMPTION AMOUNT.—For purposes of this paragraph, the exemption amount is—

“(i) \$17,910 in the case of a taxpayer having 1 MediKid,

“(ii) \$22,530 in the case of a taxpayer having 2 MediKIDS,

“(iii) \$27,150 in the case of a taxpayer having 3 MediKIDS, and

“(iv) \$31,770 in the case of a taxpayer having 4 or more MediKIDS.

“(C) PHASEOUT OF EXEMPTION.—In the case of a taxpayer having an adjusted gross income which exceeds the exemption amount but does not exceed twice the exemption amount, the premium shall be the amount which bears the same ratio to the premium which would (but for this subparagraph) apply to the taxpayer as such excess bears to the exemption amount.

“(D) INFLATION ADJUSTMENT OF EXEMPTION AMOUNTS.—In the case of any taxable year beginning in a calendar year after 2002, each dollar amount contained in subparagraph (C) shall be increased by an amount equal to the product of—

“(i) such dollar amount, and

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of \$50, such increase shall be rounded to the nearest multiple of \$50.

“(2) PREMIUM LIMITED TO 5 PERCENT OF ADJUSTED GROSS INCOME.—In no event shall any taxpayer be required to pay a premium under this section in excess of an amount equal to 5 percent of the taxpayer’s adjusted gross income.

“(e) COORDINATION WITH OTHER PROVISIONS.—

“(1) NOT TREATED AS MEDICAL EXPENSE.—For purposes of this chapter, any premium

paid under this section shall not be treated as expense for medical care.

“(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The premium paid under this section shall not be treated as a tax imposed by this chapter for purposes of determining—

“(A) the amount of any credit allowable under this chapter, or

“(B) the amount of the minimum tax imposed by section 55.

“(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the premium paid under this section shall be treated as if it were a tax imposed by section 1.”

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6012 of such Code is amended by inserting after paragraph (9) the following new paragraph:

“(10) Every individual liable for a premium under section 59B.”

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

“Part VIII. MediKIDS premium.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 2004, in taxable years ending after such date.

SEC. 4. REFUNDABLE CREDIT FOR COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

“SEC. 36. COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual who has a MediKid (as defined in section 59B) at any time during the taxable year, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 50 percent of the amount paid by the taxpayer during the taxable year as cost-sharing under section 2202(b)(4) of the Social Security Act.

“(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit which would (but for this subsection) be allowed under this section for the taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer’s adjusted gross income for such taxable year over the exemption amount (as defined in section 59B(d)) bears to such exemption amount.”

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “or from section 36 of such Code”.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

“Sec. 36. Cost-sharing expenses under MediKIDS program.

“Sec. 37. Overpayments of tax.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5. REPORT ON LONG-TERM REVENUES.

Within one year after the date of the enactment of this Act, the Secretary of the Treasury shall propose a gradual schedule of progressive tax changes to fund the program under title XXII of the Social Security Act, as the number of enrollees grows in the out-years.

By Mr. AKAKA (for himself, Mr. DURBIN, Mr. ALLEN, and Mr. VOINOVICH):

S. 589. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personal possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; to the Committee on Governmental Affairs.

Mr. AKAKA. Mr. President. Today I rise on behalf of myself and Senators DURBIN, ALLEN and VOINOVICH to reintroduce the Homeland Security Federal Workforce Act. This is similar to legislation Senator DURBIN, Senator THOMPSON, and I introduced in the 107th Congress. Like S. 1800, this bill is designed to strengthen the Federal Government’s recruitment and retention efforts in the areas of science, mathematics, and foreign language where there is a growing absence of qualified personnel.

In the weeks following the terrorist attacks of September 11, FBI Director Mueller made a plea on national television for speakers of Arabic and Farsi to help the FBI and national security agencies translate documents that were in our possession but which were left untranslated due to a shortage of employees with proficiency in those languages. The General Accounting Office has reported that agencies have shortages in translators and interpreters and an overall shortfall in the language proficiency levels needed to carry out their missions.

The Federal Government also lacks personnel with scientific and engineering skills. On February 25, 2003, William Wulf, president of the National Academy of Engineering, noted that the supply of talented engineers in government is not keeping pace with growing demand. A recent poll found that a mere 24 percent of job seekers believe that the best engineering job opportunities are in the Federal Government compared to 52 percent for the private sector. In another example, a 1999 report of the National Research Council found significant science and technology weaknesses throughout the Department of State. These shortfalls have real consequences that hamper our ability to monitor exports of military-sensitive technology and preventing proliferation of biological warfare expertise from the former Soviet Union.

Now more than ever, we must make sure we have the right people with the right skills in the right place. On January 9, 2003, the Washington Post reported that six major agencies moving into the Department of Homeland Security could lose roughly a quarter to one-half of their employees to retirement over the next five years. The data shows that about twice as many employees at these six agencies will be eligible to retire by the end of 2008 than

are currently eligible. According to the data, the following percentages of employees will be eligible to retire: 59 percent at the Federal Emergency Management Agency; 54 percent of the Coast Guard; 46 percent of the U.S. Customs Service; 44 percent of the Animal and Plant Health Inspection Service; 32 percent of the Immigration and Naturalization Service; and 22 percent of the Secret Service.

An alarming 26,363 employees out of 67,166 in the six agencies would be eligible to retire in 2008. Unfortunately, the numbers for other Federal agencies are not any better.

We need programs to recruit personnel with the skills necessary to protect our country. The Homeland Security Federal Workforce Act will do just that. Today, agencies are forced to decide between funding programs and investing in their workforce. This is a no-win situation and has prevented many agencies from fully utilizing the Federal student loan repayment program which is intended to be a powerful recruitment and retention tool. The Homeland Security Federal Workforce Act expands the existing student loan repayment program by authorizing funds for key national security agencies. The Act establishes a separate fund to be administered by the Office of Personnel Management, OPM, to repay student loans for employees in national security positions who pledge to serve in the government for a minimum of three years.

In addition, our legislation would establish a National Security Service Board to oversee and implement the new National Security Fellowship Program and the National Security Service Corps. The National Security Fellowship Program is designed to fund graduate education for selected students learning skills critical to national security who agree to enter federal service on the completion of their degree.

Current employees would not be neglected. Twenty percent of fellowship slots would be reserved for Federal employees to enhance their education and training. In addition, more training opportunities would be provided to current federal employees through the National Security Service Corps. This program is designed to provide opportunities for mid-level federal employees in agencies with national security responsibilities to serve in rotational assignments to build experience and widen perspectives within the national security community.

Last March I chaired a hearing in the Subcommittee on International Security, Proliferation, and Federal Services of the Governmental Affairs Committee on this bill. Witnesses commented on the additional benefits this legislation could have on the ability of government recruitment and retention efforts. My former colleague, Representative Lee Hamilton, now the Director of the Woodrow Wilson International Center for Scholars, noted

that, "Enactment of these proposals would encourage more people to enter national security positions by easing the financial sacrifices often associated with graduate study and with government service."

The creation of the Department of Homeland Security once again raised concerns over the recruitment and retention of skilled employees in national security positions. To address these needs, Senator VOINOVICH and I successfully added an amendment to the Homeland Security Act to help alleviate problems associated with the workforce crisis facing the Federal Government. However, we must focus our efforts on recruiting and retaining employees with the technical and language skills the federal government needs the most. This legislation helps fill the holes in our recruitment and retention efforts.

As the United States Commission on National Security/21st Century, also known as the Hart-Rudman Commission, concluded in 2001, ". . . the maintenance of American power in the world depends upon the quality of U.S. government personnel, civil and military, at all levels . . . The U.S. faces a broader range of national security challenges today, requiring policy analysts and intelligence personnel with expertise in more countries, regions, and issues." The Homeland Security Federal Workforce Act will meet this challenge.

I look forward to working with my colleagues to ensure that the Federal Government has the tools to put the right people with the right skills in the right place to protect our great Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 589

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeland Security Federal Workforce Act".

SEC. 2. FINDINGS, PURPOSE, AND EFFECT OF LAW.

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the United States requires the fullest development of the intellectual resources and technical skills of its young men and women.

(2) The security of the United States depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge.

(3) The United States finds itself on the brink of an unprecedented human capital crisis in Government. Due to increasing competition from the private sector in recruiting high-caliber individuals, Government departments and agencies, particularly those involved in national security affairs, are finding it hard to attract and retain talent.

(4) The United States must strengthen Federal civilian and military personnel systems in order to improve recruitment, retention, and effectiveness at all levels.

(5) The ability of the United States to exercise international leadership is, and will increasingly continue to be, based on the political and economic strength of the United States, as well as on United States military strength around the world.

(6) The Federal Government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of this changing international environment.

(7) In January 2001, the General Accounting Office reported that, at the Department of Defense "attrition among first-time enlistees has reached an all-time high. The services face shortages among junior officers, and problems in retaining intelligence analysts, computer programmers, and pilots." The General Accounting Office also warned of the Immigration and Naturalization Service's "lack of staff to perform intelligence functions and unclear guidance for retrieving and analyzing information."

(8) The United States Commission on National Security also cautioned that "the U.S. need for the highest quality human capital in science, mathematics, and engineering is not being met." The Commission wrote, "we must ensure the highest caliber human capital in public service. U.S. national security depends on the quality of the people, both civilian and military, serving within the ranks of government."

(9) The events on and after September 11th have highlighted the weaknesses in the Federal and State government's human capital and its personnel management practices, especially as it relates to our national security.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide attractive incentives to recruit capable individuals for Government and military service; and

(2) provide the necessary resources, accountability, and flexibility to meet the national security educational needs of the United States, especially as such needs change over time.

(c) EFFECT OF LAW.—Nothing in this Act, or an amendment made by this Act, shall be construed to affect the collective bargaining unit status or rights of any Federal employee.

TITLE I—PILOT PROGRAM FOR STUDENT LOAN REPAYMENT FOR FEDERAL EMPLOYEES IN AREAS OF CRITICAL IMPORTANCE

SEC. 101. STUDENT LOAN REPAYMENTS.

Subchapter VII of chapter 53 of title 5, United States Code, is amended by inserting after section 5379, the following:

"§5379A. Pilot program for student loan repayment for Federal employees in areas of critical importance

"(a) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency' means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency.

"(2) NATIONAL SECURITY POSITION.—The term 'national security position' means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of the Pilot Program for Student Loan Forgiveness in Areas of Critical Importance established under this section, to involve important homeland security applications.

"(3) STUDENT LOAN.—The term 'student loan' means—

“(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

“(B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and

“(C) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

“(b) ESTABLISHMENT AND OPERATION.—

“(1) IN GENERAL.—The Director of the Office of Personnel Management shall, in order to recruit or retain highly qualified professional personnel, establish a pilot program under which the head of an agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee if the employee is employed by the agency in a national security position.

“(2) TERMS AND CONDITIONS OF PAYMENT.—Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned.

“(3) PAYMENTS.—The amount paid by the agency on behalf of an employee under this section may not exceed \$10,000 towards the remaining balance of the student loan for each year that the employee remains in service in the position, except that the employee must remain in such position for at least 3 years. The maximum amount that may be paid on behalf of an employee under this paragraph shall be \$80,000.

“(4) LIMITATION.—Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

“(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

“(A) to affect student loan repayment programs existing on the date of enactment of this section;

“(B) to revoke or rescind any existing law, collective bargaining agreement, or recognition of a labor organization;

“(C) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; or

“(D) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.

“(6) FUND.—As part of the program established under paragraph (1), the Director shall establish a fund within the Office of Personnel Management to be used by agencies to provide the repayments authorized under the program.

“(c) GENERAL PROVISIONS.—

“(1) COORDINATION.—The Director of the Office of Personnel Management shall coordinate the program established under this section with the heads of agencies to recruit employees to serve in national security positions.

“(2) REPORTS.—

“(A) ALLOCATION AND IMPLEMENTATION.—Not later than 6 months after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the manner in which the Director will allocate funds and implement the program under this section.

“(B) STATUS AND SUCCESS.—Not later than 4 years after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate Committees on Congress on the status of the program and its success in recruiting and retaining employees for national security positions, including an assessment as to whether the program should be expanded to other agencies or to non-national security positions to improve overall Federal workforce recruitment and retention.

“(d) INELIGIBLE EMPLOYEES.—An employee shall not be eligible for benefits under this section if such employee—

“(1) occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(2) does not occupy a national security position.

“(e) TERMS OF AGREEMENT.—

“(1) IN GENERAL.—An employee selected to receive benefits under this section shall agree in writing, before receiving any such benefit, that the employee will—

“(A) remain in the service of the agency in a national security position for a period to be specified in the agreement, but not less than 3 years, unless involuntarily separated; and

“(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

“(2) SERVICE WITH OTHER AGENCY.—The repayment provided for under paragraph (1)(B) may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that repayment will be required under this subsection.

“(3) RECOVERY OF AMOUNTS.—If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2)) is voluntarily separated before completing the required period of service fails to repay the amount provided for under paragraph (1)(B), a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

“(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

“(B) such other method as is provided for by law for the recovery of amounts owing to the Government.

“(4) WAIVER.—The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

“(5) CREDITING OF ACCOUNT.—Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the fund under subsection (b)(6). Any amount so credited shall be merged with other sums in such fund and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

“(f) TERMINATION OF REPAYMENT.—An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

“(1) separates from such agency; or

“(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

“(g) EQUAL EMPLOYMENT.—In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

“(h) ADDITIONAL BENEFIT.—Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

“(i) APPROPRIATIONS AUTHORIZED.—For the purpose of enabling the Federal Government to recruit and retain employees critical to our national security pursuant to this section, there are authorized to be appropriated such sums as may be necessary to carry out this section for each fiscal year.

“(j) LENGTH OF PROGRAM.—The program under this section shall remain in effect for the 8-year period beginning on the date of enactment of this section. The program shall continue to pay employees recruited under this program who are in compliance with this section their benefits through their commitment period regardless of the preceding sentence.

“(k) REGULATIONS.—Not later than 2 months after the date of enactment of this section, the Director of the Office of Personnel Management shall propose regulations to carry out this section. Not later than 6 months after the date on which the comment period for the regulations proposed under the preceding sentence ends, the Secretary shall promulgate final regulations to carry out this section.”

TITLE II—FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE
SEC. 201. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

Subchapter VII of chapter 53 of title 5, United States Code, as amended by section 101, is further amended by inserting after section 5379A, the following:

“§5379B. Fellowships for graduate students to enter federal service

“(a) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency, and other Federal Government agencies as determined by the National Security Service Board under subsection (f).

“(2) DIRECTOR.—The term ‘Director’ means the Director of the Office of Personnel Management.

“(3) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

“(4) NATIONAL SECURITY POSITION.—The term ‘national security position’ means an employment position determined by the Director of the Office of Personnel Management, in consultation with an agency, for the purposes of a program established for Fellowships for Graduate Students to Enter Federal Services as established under this section, to involve important homeland security applications.

“(5) SCIENCE.—The term ‘science’ means any of the natural and physical sciences including chemistry, biology, physics, and

computer science. Such term does not include any of the social sciences.”

“(b) IN GENERAL.—The Director shall establish and implement a program for the awarding of fellowships (to be known as ‘National Security Fellowships’) to graduate students who, in exchange for receipt of the fellowship, agree to employment with the Federal Government in a national security position.

“(c) ELIGIBILITY.—To be eligible to participate in the program established under subsection (b), a student shall—

“(1) have been accepted into a graduate school program at an accredited institution of higher education within the United States and be pursuing or intend to pursue graduate education in the United States in the disciplines of foreign languages, science, mathematics, engineering, nonproliferation education, or other international fields that are critical areas of national security (as determined by the Director);

“(2) be a United States citizen, United States national, permanent legal resident, or citizen of the Freely Associated States; and

“(3) agree to employment with an agency or office of the Federal Government in a national security position.

“(d) SERVICE AGREEMENT.—In awarding a fellowship under the program under this section, the Director shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

“(1) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Director) and provide regularly scheduled updates to the Director on the progress of their education and how their employment continues to relate to a national security objective of the Federal Government;

“(2) will, upon completion of such education, be employed by the agency for which the fellowship was awarded for a period of at least 3 years as specified by the Director; and

“(3) agrees that if the recipient is unable to meet either of the requirements described in paragraph (1) or (2), the recipient will reimburse the United States for the amount of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Director, but not higher than the rate generally applied in connection with other Federal education loans.

“(e) FEDERAL EMPLOYMENT ELIGIBILITY.—If a recipient of a fellowship under this section demonstrates to the satisfaction of the Director that, after completing their education, the recipient is unable to obtain a national security position in the Federal Government because such recipient is not eligible for a security clearance or other applicable clearance necessary for such position, the Director may permit the recipient to fulfill the service obligation under the agreement under subsection (d) by working in another office or agency in the Federal Government for which their skills are appropriate, by teaching math, science, or foreign languages, or by performing research, at an institution of higher education, for a period of not less than 3 years, in the area of study for which the fellowship was awarded.

“(f) FELLOWSHIP SELECTION.—

“(1) IN GENERAL.—The Director shall consult and cooperate with the National Security Service Board established under paragraph (2) in the selection and placement of national security fellows under this section.

“(2) NATIONAL SECURITY SERVICE BOARD.—

“(A) ESTABLISHMENT OF BOARD.—There is established the National Security Service Board.

“(B) MEMBERSHIP.—The Board shall be composed of—

“(i) the Director of the Office of Personnel Management, who shall serve as the chairperson of the Board;

“(ii) the Secretary of Defense;

“(iii) the Secretary of Homeland Security;

“(iv) the Secretary of State;

“(v) the Secretary of the Treasury;

“(vi) the Attorney General;

“(vii) the Director of the Central Intelligence Agency;

“(viii) the Director of the Federal Bureau of Investigations;

“(ix) the Director of the National Security Agency;

“(x) the Secretary of Energy;

“(xi) the Director of the Office of Science and Technology Policy; and

“(xii) 2 employees, to be appointed by each of the officials described in clauses (ii) through (ix), of each Department for which such officials have responsibility for administering, of whom—

“(I) 1 shall perform senior level policy functions; and

“(II) 1 shall perform human resources functions.

“(C) FUNCTIONS.—The Board shall carry out the following functions:

“(i) Develop criteria for awarding fellowships under this section.

“(ii) Provide for the wide dissemination of information regarding the activities assisted under this section.

“(iii) Establish qualifications for students desiring fellowships under this section, including a requirement that the student have a demonstrated commitment to the study of the discipline for which the fellowship is to be awarded.

“(iv) Provide the Director semi-annually with a list of fellowship recipients, including an identification of their skills, who are available to work in a national security position.

“(v) Not later than 30 days after a fellowship recipient completes the study or education for which assistance was provided under this section, work in conjunction with the Director to make reasonable efforts to hire and place the fellow in an appropriate national security position.

“(vi) Review the administration of the program established under this section.

“(vii) Develop and provide to Congress a strategic plan that identifies the skills needed by the Federal national security workforce and how the provisions of this Act, and related laws, regulations, and policies will be used to address such needs.

“(viii) Carry out additional functions under section 301 of the Homeland Security Federal Workforce Act.

“(g) SPECIAL CONSIDERATION FOR CURRENT FEDERAL EMPLOYEES.—

“(1) SET ASIDE OF FELLOWSHIPS.—Twenty percent of the fellowships awarded under this section shall be set aside for Federal employees who are working in national security positions on the date of enactment of this section to enhance the education and training of such employees in areas important to national security.

“(2) FULL- OR PART-TIME EDUCATION.—Federal employees who are awarded fellowships under paragraph (1) shall be permitted to obtain advanced education under the fellowship on a full-time or part-time basis.

“(3) PART-TIME EDUCATION.—A Federal employee who pursues education or training under a fellowship under paragraph (1) on a part-time basis shall be eligible for a stipend in an amount which, when added to the employee's part-time compensation, does not exceed the amount described in subsection (i)(2).

“(h) FELLOWSHIP SERVICE.—Any individual under this section who is employed by the Federal Government in a national security

position shall be able to count the time that the individual spent in the fellowship program towards the time requirement for a reduction in student loans as described in section 5379A.

“(i) AMOUNT OF AWARD.—A National Security Fellow who complies with the requirements of this section may receive funding under the fellowship for up to 3 years at an amount determined appropriate by the Director, but not to exceed the sum of—

“(1) the amount of tuition paid by the fellow; and

“(2) a stipend in an amount equal to the maximum stipend available to recipients of fellowships under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) for the year involved.

“(j) APPROPRIATIONS AUTHORIZED.—For the purpose of enabling the Director to recruit and retain highly qualified employees in national security positions, there are authorized to be appropriated \$100,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year.

“(k) RULE OF CONSTRUCTION.—Noting in this section shall be construed—

“(1) to authorize the Office of Personnel Management to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; and

“(2) as a basis for determining the exemption of any position from inclusion in a bargaining unit pursuant to chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Office of Personnel Management pursuant to this section, from entitlement to all rights and benefits under such chapter.”

TITLE III—NATIONAL SECURITY SERVICE CORPS

SEC. 301. NATIONAL SECURITY SERVICE CORPS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) a proficient national security workforce requires certain skills and knowledge, and effective professional relationships; and

(B) a national security workforce will benefit from the establishment of a National Security Service Corps.

(2) PURPOSES.—The purposes of this section are to—

(A) provide mid-level employees in national security positions within agencies the opportunity to broaden their knowledge through exposure to other agencies;

(B) expand the knowledge base of national security agencies by providing for rotational assignments of their employees at other agencies;

(C) build professional relationships and contacts among the employees and agencies of the national security community; and

(D) invigorate the national security community with exciting and professionally rewarding opportunities.

(b) DEFINITIONS.—In this section:

(1) AGENCY.—The term “agency” means an agency of the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, and the National Security Agency.

(2) BOARD.—The term “Board” means the National Security Service Board established under section 5379B(f)(2) of title 5, United States Code.

(3) CORPS.—The term “Corps” means the National Security Service Corps.

(4) CORPS POSITION.—The term “corps position” means a position that—

(A) is a position—

(i) at or above GS-12 of the General Schedule; or

(ii) in the Senior Executive Service;
 (B) the duties of which do not relate to intelligence support for policy; and
 (C) is designated by the head of an agency as a Corps position.

(C) GOALS AND ADMINISTRATION.—The Board shall—

(1) formulate the goals of the Corps;
 (2) resolve any issues regarding the feasibility of implementing this section;
 (3) evaluate relevant civil service rules and regulations to determine the desirability of seeking legislative changes to facilitate application of the General Schedule and Senior Executive Service personnel systems to the Corps;

(4) create specific provisions for agencies regarding rotational programs;

(5) formulate interagency compacts and cooperative agreements between and among agencies relating to—

(A) the establishment and function of the Corps;

(B) incentives for individuals to participate in the Corps;

(C) professional education and training;

(D)(i) the process for competition for a Corps position;

(ii) which individuals may compete for Corps positions; and

(iii) any employment preferences an individual participating in the Corps may have when returning to the employing agency of that individual; and

(E) any other issues relevant to the establishment and continued operation of the Corps; and

(6) not later than 180 days after the date of enactment of this section, submit a report to the Office of Personnel Management on all findings and relevant information on the establishment of the Corps.

(d) CORPS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date on which the report is submitted under subsection (c)(6), the Office of Personnel Management shall publish in the Federal Register, proposed regulations describing the purpose, and providing for the establishment and operation of the Corps.

(2) COMMENT PERIOD.—The Office of Personnel Management shall provide for—

(A) a period of 60 days for comments from all stakeholders on the proposed regulations; and

(B) a period of 180 days following the comment period for making modifications to the regulations.

(3) FINAL REGULATIONS.—After the 180-day period described under paragraph (2)(B), the Office of Personnel Management shall promulgate final regulations that—

(A) establish the Corps;

(B) provide guidance to agencies to designate Corps positions;

(C) provide for individuals to perform periods of service of not more than 2 years at a Corps position within agencies on a rotational basis;

(D) establish eligibility for individuals to participate in the Corps;

(E) enhance career opportunities for individuals participating in the Corps;

(F) provide for the Corps to develop a group of policy experts with broad-based experience throughout the executive branch; and

(G) provide for greater interaction among agencies with traditional national security functions.

(4) ACTIONS BY AGENCIES.—Not later than 180 days after the promulgation of final regulations under paragraph (3), each agency shall—

(A) designate Corps positions;

(B) establish procedures for implementing this section; and

(C) begin active participation in the operation of the Corps.

(e) ALLOWANCES, PRIVILEGES, ETC.—An employee serving on a rotational basis with another agency pursuant to this section is deemed to be detailed and, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits with respect to the employee, is deemed to be an employee of the original employing agency and is entitled to the pay, allowances, and benefits from funds available to that agency.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management such sums as may be necessary to carry out this section.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. CONTENT OF STRATEGIC PLANS.

Section 306(a)(3) of title 5, United States Code, is amended by inserting before the semicolon the following: “, a discussion of the extent to which specific skills in the agency’s human capital are needed to achieve the mission, goals and objectives of the agency, especially to the extent the agency’s mission, goals and objectives are critical to ensuring the national security”.

SEC. 402. PERFORMANCE PLANS.

Section 1115(a) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

(2) by inserting after paragraph (3) the following:

“(4) pursuant to paragraph (3), give special attention to the extent to which specific skills are needed to accomplish the performance goals and indicators that are critical to ensuring the national security”.

SEC. 403. GOVERNMENTWIDE PROGRAM PERFORMANCE REPORTS.

Section 1116 of title 31, United States Code, is amended—

(1) in subsection (b)(1), by inserting before the period the following: “, and shall specify which performance goals and indicators are critical to ensuring the national security”; and

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by adding “and” after the semicolon; and

(C) by adding at the end the following:

“(D) whether human capital deficiencies in any way contributed to the failure of the agency to achieve the goal”.

By Mr. HOLLINGS:

S. 592. A bill to establish an Office of Manufacturing in the Department of Commerce, and for other purposes; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, the Department of Labor, recently released the latest unemployment results and at first blush, the 5.8 percent figure, while certainly too high, does not seem overly alarming. It is only with a look behind the numbers that some disturbing trends become apparent.

February marked the 31st consecutive month, since July 2000, that manufacturing employment has declined. This is the longest consecutive monthly decline in the post World War II era. Already, more than 2 million manufacturing jobs are gone. A generation ago, in 1974, manufacturing workers were 26 percent of the workforce, today they account for only 12.5 percent of the workforce.

For all of 2002, industrial production fell 0.6 percent following a 3.5 percent decline in 2001. That represented the first back-to-back annual declines in industrial output since 1974–1975.

Unfortunately, no end is in sight. By some measures, the manufacturing job loss is twice as bad as the last recession in the early Nineties. The 2002 Producer Price Index revealed the worst deflation in producer prices since 1949, suggesting that there is little incentive to restart the shuttered factories.

Prices for manufactured goods were down 1.5 percent in December from a year earlier. Next to a 1.6 percent year-to-year drop in November, it was the largest decline of such prices on record going back to 1958. And all this has occurred against the backdrop of 2 years of substantial fiscal stimulus and the most aggressive monetary policy in anyone’s memory.

But this wasn’t suppose to happen. Globalization was going to create a gentle prosperity that would create jobs, lift our standard of living and improve our communities. During the Clinton era, we entered into a series of international trade agreements, most notably NAFTA, WTO and China’s entrance into the WTO, designed to increase trade and stimulate manufacturing job creation.

The second Bush administration continues this policy, trotting around the globe negotiating, free-trade agreements within every region of the world. Recently, the administration concluded agreements with Singapore and Chile.

After nearly a decade of the NAFTA/WTO free-trade experiment and after a year of “recovery”, it seems appropriate to review whether this free trade era is working? The answer is clearly no.

Our factories have been swamped by a flood of imports. Each month seems to bring a record trade deficit and more stories of plants closing and moving offshore.

Our communities, particularly the rural ones, are quite literally emptying out. During the nineties, imports soared by more than 107 percent. Our trade surplus with Mexico dissolved soon after NAFTA went into effect. From 1991 to 2001, our trade deficit went from \$77 billion to \$427 billion, costing us hundreds of thousands of jobs.

Essentially, our trading partners are exporting their unemployment to us. Recently, Ed Yardeni, chief investment strategist of Prudential Securities, noted that while the United States currently has 16.3 million manufacturing jobs, some 20 million rural Chinese move to seek better-paying manufacturing and construction jobs in the cities, each year.

There seems to be no end in sight to pain being experienced by our manufacturing sector. Even a declining dollar is not improving our trade situation, as our factories race to re-establish overseas. It seems like recognizing

where our problem is coming from would be a good first step toward solving it.

So today I introduce legislation designed to help get American manufacturing off the canvas. It is broad and wide ranging.

The legislation would eliminate the tax benefits associated with off-shore production, whether its by a United States or foreign-based company. It would eliminate the incentives for companies to move their headquarters outside of the United States. It would prevent the Export Import Bank or the Overseas Private Investment Corporation from funding any project that did not contain at least 80 percent U.S. content. It would eliminate the International Trade Commission. It would provide for an additional 500 Customs agents to enforce the tariff and quota rules associated with the textile trade. It would prohibit the sale in interstate commerce of any manufactured product made by anyone under twelve. It would reform WTO dispute settlement by establishing a panel of Federal judges to review the determinations that these dispute panels are reaching. It would express the Senate's strong support for the Byrd amendment which returns anti-dumping monies to injured parties. Finally, the legislation would extend the Buy America provisions for the Defense Department contained in the Berry amendment to the newly formed Department of Homeland Security.

It's just a start, but we have to begin the process of rejuvenating the American manufacturer.

By Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. LEAHY, Mr. SARBANES, Mr. BINGAMAN, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 593. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment has occurred; to the Committee on Governmental Affairs.

Mr. DURBIN. Mr. President, today, with war looming with Iraq and hundreds of thousands of our troops poised for battle overseas, I would like to discuss the financial burden faced by many of the men and women who serve in the military Reserves or National Guard and who are forced to take unpaid leave from their jobs when called to active duty. Currently, there are nearly 170,000 Guard and Reservists mobilized and serving on active duty in our armed forces. While these individuals receive pay for the time they are on active duty, the salary gap between military duty and civilian work can be considerable. It is unfair to ask the

men and women who have volunteered to serve their country, often in dangerous situations, to also face a financial strain on their families.

A number of employers have wisely acted to remedy this hardship by establishing financial compensation plans for their employees in the Reserves and National Guard. Many companies and State and local governments, including Ford, IBM, the State of California, Los Angeles County, and Austin, TX, recognize this burden and voluntarily pay the difference between the active duty military salary and civilian salary for these reservists. In my State of Illinois, Boeing Aerospace, State Farm Insurance, Sears, Roebuck & Company, the State of Illinois, the City of Chicago, and many other Illinois companies, local governments, and institutions cover the pay differential for Reserve and National Guard members called to active duty.

We should take similar action in Washington and set an example for employers throughout the country. Today, I am introducing with my colleague from Maryland, Senator BARBARA MIKULSKI, the Reservist Pay Security Act of 2003, legislation that will help alleviate the financial problems faced by many Federal employees who serve in the Reserves and must take time off from their jobs when our Nation calls. This bill would allow these citizen-soldiers to maintain their normal salary when called to active service by requiring Federal agencies to make up the difference between their military pay and what they would have earned on their Federal job.

As the symbol of American values and ideals, the Federal Government should give these special employees of our government more than just words of support. We should not encourage Americans to protect their country and then punish those who enlist in the armed forces by taking away a large portion of their salaries. We must provide our reservist employees with financial support so they can leave their civilian lives to serve our country without the added burden of worrying about the financial well-being of their families. They are doing so much for us; we should do no less for them.

I urge my colleagues to join me in cosponsoring this important legislation.

Ms. MIKULSKI. Mr. President, yesterday I spoke on the floor about supporting our armed forces. Support for our troops is particularly important today as our soldiers, sailors, airmen and marines are deployed for possible war with Iraq. We must express our support not only with words, but with deeds. We owe that to our armed forces.

Our brave men and women of the National Guard and Reserves are experiencing hardships as a result of recent mobilizations. I believe we should do everything we can to reduce unnecessary financial burdens on members of the military, especially when they are putting themselves in harm's way to protect our great Nation.

We must stand up for our military; we must also stand up for their families. Our troops will face grave danger. They should not have to face fear for their families, and particularly they should not have to worry about their families' finances.

Though America is on the brink of war, American military families must never be on the brink of bankruptcy. That is why we, in the Senate, must take immediate steps to support military families.

Today, I am proud to cosponsor the Reservists Pay Security Act with my colleague Senator DICK DURBIN. Senator DURBIN introduced a similar bill in the House, and I introduced it in the Senate during Desert Storm in 1991. It was the right thing to do then, and it is the right thing to do now. I'm proud to work together again on this worthy cause.

The Reservists Pay Security Act of 2003 would ensure that Federal employees who take leave to serve in our military reserves receive the same pay as if no interruption in their employment occurred. Why start with Federal employees? Well, many large companies and local governments continue to pay the full salary of their employees when they are activated. I applaud those excellent corporate citizens and those local governments. Some of the largest employers in my own State are also meeting that responsibility. The Federal Government should be a model employer and set the example for large businesses. This should be a first step.

I believe we should move quickly to pass this bill because many members of the Guard and Reserves do work for the Federal Government in highly specialized areas. But the Federal Government needs to do more than that. We need to take a look at those who work for small business and those who are self-employed. A call for duty will be responded to, but a call for duty time and time again in a single-year period places the responsibility on the family. American families should never subsidize our war effort. We should be looking out for those families.

We owe reservists our support and a debt of gratitude. This bill is a step toward achieving that. I urge my colleagues to join us and enact this important legislation for the men and women of our National Guard and Reserves.

By Mr. JOHNSON (for himself, Mr. DASCHLE, Mr. CAMPBELL, Mr. COCHRAN, and Mrs. MURRAY):

S. 594. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs, and for other purposes; to the Committee on the Indian Affairs.

Mr. JOHNSON. Mr. President, I, along with Senators DASCHLE, CAMPBELL, COCHRAN, and MURRAY introduce the Indian School Construction Act. This legislation establishes an innovative funding mechanism to enhance the

ability of Indian tribes to construct, repair, and maintain quality educational facilities.

For education construction in fiscal year 2004, President Bush proposes a total of \$292.6 million, the same level as was requested in FY 2003. Of this total, \$131.4 million is for new school construction to replace seven tribal schools on the BIA Priority List, one of those is in my home state of South Dakota. While I am pleased that seven schools will be replaced this year, there are literally dozens of schools that are in desperate need of replacement and repair. Simply, the process for replacing schools does not meet the need.

American Indians have been, and continue to be disproportionately affected by both poverty and low educational achievement. The fact that children are expected to learn despite inadequate educational facilities undoubtedly contributes to this disparity.

This bill provides a mechanism whereby an escrow account will be set up with a one time appropriation. Money would be placed in the escrow account and the tribal governments could use that account to issue bonds for purposes of constructing elementary and secondary schools. This allows tribal governments an opportunity to construct schools, even if the schools are low on the BIA priority list and are not slated for immediate construction under the direct appropriation process. Ultimately, this would mean that our children can learn in a better environment more quickly.

I urge my colleagues to closely examine the Indian School Construction Act and join me in working to make this innovative funding mechanism a reality.

By Mr. HATCH (for himself, Mr. BREAUX, Mr. ALLARD, Ms. COLLINS, Mr. SUNUNU, and Ms. SNOWE):

S. 595. A bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, on behalf of myself and Senator BREAUX, I rise today to introduce the Housing Bond and Credit Modernization and Fairness Act of 2003. We are joined in this legislation by Senators ALLARD, COLLINS, SUNUNU, and SNOWE.

This bill will bring about important modifications to two important and popular Federal affordable housing programs—Housing Bonds, or single family Mortgage Revenue Bonds, MRBs, as they are commonly known, and the Low Income Housing Tax Credit. My long-time partnership on these issues with Senator BREAUX is one indication of the broad bipartisan support enjoyed by these programs. Another is the fact

that our identical bill in the 107th Congress attracted 79 members of this body as cosponsors.

These programs are popular because they are state-administered, federal tax incentives designed to encourage private investment in first-time homebuyer mortgages for low and moderate-income families and privately developed and owned apartments for low-income renters. Moreover, they have a proven track record of being effective in providing housing to families who need it.

As with most things, however, these programs could use some improvements. Specifically, the current law governing these two housing programs includes some obsolete provisions that act as barriers and limit their effectiveness. The legislation we are introducing today would modernize these programs and remove these barriers.

The Housing Bond and Credit Modernization and Fairness Act does three things.

First, it repeals the so-called “Ten-Year Rule,” a provision added to the MRB program in 1988 that prevents States from using homeowner payments on such mortgages to make new mortgages to additional qualified purchasers. For each day the Ten-Year Rule is in effect, States lose millions of dollars in financing for first-time homebuyer mortgages, amounting to more than \$14 billion in mortgage authority between 2001 and 2005. This barrier keeps tens of thousands of additional qualified lower income homebuyers from getting an affordable MRB-financed mortgage, including many in my home State of Utah. Our bill eliminates the Ten-Year Rule to allow States to use mortgage payments to finance additional lower income mortgages.

Second, it replaces the present unworkable price limit for homes these mortgages can finance with a simple limit that works. Let me explain. Current law limits the price of homes purchased with MRB-financed mortgages to 90 percent of the average area home price. States have the option of determining their own purchase price limits or relying on Treasury-published safe harbor limits.

Most States have relied on the Treasury limits because it is costly and burdensome to collect accurate and comprehensive sales price data. The problem is that the Treasury Department has not been providing recent data. This has especially been a problem for states, such as Utah, with many rural areas. In fact, Treasury last issued safe harbor limits in 1994, based on 1993 data. Home prices have risen significantly in the past ten years. This means that the MRB program simply cannot work in many parts of many states because qualified buyers cannot find homes priced below the outdated limits. To have an outdated and unworkable requirement that holds back the families that this program is designed to help is poor public policy that cries out for remedy.

The answer, which is included in our bill, is to replace the present limit, set in Washington, by a simple formula limiting the purchase price to three and a half times the qualifying income under the program.

Finally, the bill makes Housing Credit apartment production viable in rural areas by allowing States to use statewide median incomes as the basis for the income limits in that program. This change would apply the same methodology for determining qualifying income levels used in the MRB Program. HUD data shows that current income limits inhibit Housing Credit development in more than 1,300 non-metropolitan counties across the country.

I am pleased to tell my colleagues that the changes proposed by the Housing Bond and Credit Modernization and Fairness Act have been endorsed by the bipartisan National Governors Association, the National Council of State Housing Agencies, and nearly every major national housing organization. These groups know how important the Housing Bond and Housing Credit programs are in giving States the ability to meet the housing needs of low and moderate-income families.

The Housing Credit and the MRB programs work and they are important to each State. This bill gives the Congress a golden opportunity to create new housing opportunities for tens of thousands of low and moderate-income families every year, simply by improving these existing and proven programs. I encourage my colleagues to join this bipartisan effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 595

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Housing Bond and Credit Modernization and Fairness Act of 2003”.

SEC. 2. REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 143(a)(2) of the Internal Revenue Code of 1986 (defining qualified mortgage issue) is amended by adding “and” at the end of clause (ii), by striking “, and” at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) of such Code is amended by striking “(and clause (iv) of subparagraph (A))”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments received after the date of the enactment of this Act.

SEC. 3. MODIFICATION OF PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 143(e) of the Internal Revenue Code of 1986

(relating to purchase price requirement) is amended to read as follows:

“(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

“(A) 90 percent of the average area purchase price applicable to the residence, or

“(B) 3.5 times the applicable median family income (as defined in subsection (f)).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to financing provided, and mortgage credit certificates issued, after the date of the enactment of this Act.

SEC. 4. DETERMINATION OF AREA MEDIAN GROSS INCOME FOR LOW-INCOME HOUSING CREDIT PROJECTS.

(a) IN GENERAL.—Paragraph (4) of section 42(g) of the Internal Revenue Code of 1986 (relating to certain rules made applicable) is amended by striking the period at the end and inserting “and the term ‘area median gross income’ means the amount equal to the greater of—

“(A) the area median gross income determined under section 142(d)(2)(B), or

“(B) the statewide median gross income for the State in which the project is located.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

By Mr. ENSIGN (for himself, Mrs. BOXER, Mr. SMITH, Mr. ALLEN, Mr. ENZI, and Mr. BAYH):

S. 596. A bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation; to the Committee on Finance.

Mr. ENSIGN. Mr. President. I rise today with my colleagues Senator BOXER, Senator SMITH, Senator ALLEN, Senator ENZI and Senator BAYH to introduce The Invest in the U.S.A. Act of 2003 to stimulate job growth and investment in the American economy.

Under current tax law, American companies doing business overseas are discouraged from bringing their earnings back home because those earnings are subject to up to a 35-percent rate of taxation. Specifically, our government imposes taxes on American companies when its foreign subsidiary earnings are brought back to the United States, to the extent of any shortfall in the tax paid abroad and the 35-percent U.S. tax rate. Therefore, many businesses do the math and conclude that it would be more beneficial to invest 100 percent of those earnings abroad than it would be to bring the funds home to be reinvested in the American economy.

Our proposal is a sensible, fiscally responsible way to provide immediate investment in the American economy. Specifically, the Invest in the U.S.A. Act bill will allow domestic corporations doing business abroad to bring their foreign earnings home by imposing a 5.25-percent toll tax on dividends in excess of normal distributions for

only one year. Companies must reinvest these funds in the United States in an approved investment plan to take advantage of the lowered rate. Finally, domestic shareholders would permanently surrender the right to claim foreign tax credits for 85 percent of foreign income taxes associated with dividends subject to the 5.25-percent tax, as well as exclude 85 percent of income subject to the 5.25-percent tax from the calculation of the foreign tax credit limitation ensuring that no American company will be taxed less than 5.25 percent.

Lowering the tax burden on foreign subsidiary income for a limited time will open the floodgates for privately held foreign funds to be brought back into the American economy to provide immediate economic stimulus. According to the Joint Committee on Taxation, the Invest in the U.S.A. Act will not only increase receipts to the U.S. Treasury in the first year by \$4.1 billion but also inject an additional \$135 billion of privately held funds into the U.S. economy that will be an immediate stimulus to our economy at a cost of only \$3.9 billion over 10 years—less than 3 percent of the overall gain this legislation will have to the American economy.

These funds can be used to create more jobs for American workers, solidify corporate pension and retirement funds, invest in manufacturing equipment and research and development, and reduce domestic debt loads thereby increasing employee and shareholder dividends. American jobs depend on American companies, and this proposal will accomplish that objective. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 596

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Invest in the U.S.A. Act of 2003”.

SEC. 2. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

“(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section for any taxable year, a tax shall be imposed for such taxable year in an amount equal to 5.25 percent of—

“(1) the taxpayer’s excess qualified foreign distribution amount for such taxable year, plus

“(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

“(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘excess qualified foreign distribution amount’ means the excess (if any) of—

“(A) dividends received by the taxpayer during the taxable year which are—

“(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

“(ii) described in a domestic reinvestment plan approved by the taxpayer’s president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer’s board of directors, management committee, executive committee, or similar body, which plan shall provide for the reinvestment of such dividends in the United States, such as for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation, over

“(B) the base dividend amount.

“(2) BASE DIVIDEND AMOUNT.—The term ‘base dividend amount’ means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

“(3) FIXED BASE PERIOD.—

“(A) IN GENERAL.—The term ‘fixed base period’ means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

“(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

“(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

“(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall mean such shorter period representing all of the taxable years of the taxpayer ending on or before December 31, 2002.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) DIVIDENDS.—The term ‘dividend’ means a dividend as defined in section 316, except that the term shall also include amounts described in section 951(a)(1)(B), and shall exclude amounts described in sections 78 and 959.

“(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term ‘controlled foreign corporation’ shall have the same meaning as under section 957(a) and the term ‘United States shareholder’ shall have the same meaning as under section 951(b).

“(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent.

“(4) FOREIGN TAX CREDIT LIMITATION.—For all purposes of section 904, there shall be disregarded 85 percent of—

“(A) the excess qualified foreign distribution amount,

“(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

“(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

“(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

“(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer in applying the rules of this section.

“(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

“(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

“(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

“(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

“(d) ELECTION.—

“(1) IN GENERAL.—An election under this section shall be made on the timely filed income tax return for the taxpayer's first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

“(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

“(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer, and shall apply to all members of the affiliated group.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.”.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply only to the

first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

Mrs. BOXER. Today, Senator ENSIGN and I are introducing the Invest in the U.S.A. Act of 2003 along with Senators SMITH, ALLEN, ENZI, and BAYH. This economic stimulus legislation would create a one-year incentive for corporations to bring the profits they have made overseas back to the United States and invest them in creating jobs.

The act lowers the effective corporate tax rate on the foreign earnings of American companies from 35 percent to 5.25 percent for one year. By lowering that rate for one year, we will encourage companies to bring an estimated \$135 billion from abroad back home to invest in the United States. Getting this capital into the domestic economy is particularly necessary in light of the difficulties firms are having raising money in this tough economy. By making this capital available for domestic investment, we will minimize the spending cuts that companies have been announcing for the coming year.

The Invest in the U.S.A. Act would constitute a true economic stimulus by encouraging investment and job creation right away in such activities as worker hiring and training, research and development, and new plants.

Our proposal is also fiscally responsible, unlike other proposals that fail to give the economy the shot in the arm it needs. It will result in job creation rather than deficit creation by enabling a tremendous amount of investment in our economy in the short term with only a small cost in the long term. For Government, the funds brought back to the United States will generate \$4.1 billion in revenues in the first year and is expected to cost \$3.9 billion over 10 years.

I want to thank Senator ENSIGN for his active, engaged leadership on this legislation. I particularly appreciate Senator ENSIGN's focus on ensuring that these funds will be targeted at creating jobs and stimulating our economy right away.

Mr. President, we will work hard to ensure that the provisions in this act are included in any economic growth package that the Senate considers because our workers need the opportunities it would create and our economy needs the capital it would generate.

By Mr. GRASSLEY (for himself,
Mr. BAUCUS, Mr. DOMENICI, and
Mr. BINGAMAN):

S. 597. A bill to amend the Internal Revenue Code of 1986 to provide energy tax incentives; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased that today we offer a bipartisan energy tax incentives package for the 108th Congress. I have been joined in this introduction by not only Ranking Member of the Finance Committee, Senator BAUCUS, but also the Chairman

and the Ranking Member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN as original sponsors of the Energy Tax Incentives Act of 2003, which we are introducing today.

This bill is substantially similar to the Energy Tax Incentives Bill which won overwhelming support on the floor of the Senate last April. It continues to represent a balanced package of alternative energy, traditional energy production and energy efficiency incentives. As we move forward towards a Mark-up of an energy tax bill by the Finance Committee, this bill represents a starting point. We hope over the next few weeks to be able to incorporate some of the new and improved versions of some of the provisions that we developed over the many months of conference during the last Congress.

I remain committed to diverse sources of energy and electricity, to include the production of electricity for wind and agricultural waste nutrients. In addition this bill reflects my continued interest in biodiesel and provisions to support small ethanol producers. I look forward to working with the Sponsors to craft a responsive bipartisan energy tax package.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 597

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the “Energy Tax Incentives Act of 2003”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 101. Three-year extension of credit for producing electricity from wind and poultry waste.

Sec. 102. Credit for electricity produced from biomass.

Sec. 103. Credit for electricity produced from swine and bovine waste nutrients, geothermal energy, and solar energy.

Sec. 104. Treatment of persons not able to use entire credit.

Sec. 105. Credit for electricity produced from small irrigation power.

Sec. 106. Credit for electricity produced from municipal biosolids and recycled sludge.

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

Sec. 201. Alternative motor vehicle credit.

Sec. 202. Modification of credit for qualified electric vehicles.

Sec. 203. Credit for installation of alternative fueling stations.

- Sec. 204. Credit for retail sale of alternative fuels as motor vehicle fuel.
- Sec. 205. Small ethanol producer credit.
- Sec. 206. All alcohol fuels taxes transferred to Highway Trust Fund.
- Sec. 207. Increased flexibility in alcohol fuels tax credit.
- Sec. 208. Incentives for biodiesel.
- Sec. 209. Credit for taxpayers owning commercial power takeoff vehicles.

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

- Sec. 301. Credit for construction of new energy efficient home.
- Sec. 302. Credit for energy efficient appliances.
- Sec. 303. Credit for residential energy efficient property.
- Sec. 304. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
- Sec. 305. Energy efficient commercial buildings deduction.
- Sec. 306. Allowance of deduction for qualified new or retrofitted energy management devices.
- Sec. 307. Three-year applicable recovery period for depreciation of qualified energy management devices.
- Sec. 308. Energy credit for combined heat and power system property.
- Sec. 309. Credit for energy efficiency improvements to existing homes.
- Sec. 310. Allowance of deduction for qualified new or retrofitted water submetering devices.
- Sec. 311. Three-year applicable recovery period for depreciation of qualified water submetering devices.

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

- Sec. 401. Credit for production from a qualifying clean coal technology unit.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

- Sec. 411. Credit for investment in qualifying advanced clean coal technology.
- Sec. 412. Credit for production from a qualifying advanced clean coal technology unit.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

- Sec. 421. Treatment of persons not able to use entire credit.

TITLE V—OIL AND GAS PROVISIONS

- Sec. 501. Oil and gas from marginal wells.
- Sec. 502. Natural gas gathering lines treated as 7-year property.
- Sec. 503. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
- Sec. 504. Environmental tax credit.
- Sec. 505. Determination of small refiner exception to oil depletion deduction.
- Sec. 506. Marginal production income limit extension.
- Sec. 507. Amortization of geological and geophysical expenditures.
- Sec. 508. Amortization of delay rental payments.
- Sec. 509. Study of coal bed methane.
- Sec. 510. Extension and modification of credit for producing fuel from a nonconventional source.
- Sec. 511. Natural gas distribution lines treated as 15-year property.

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

- Sec. 601. Ongoing study and reports regarding tax issues resulting from future restructuring decisions.
- Sec. 602. Modifications to special rules for nuclear decommissioning costs.
- Sec. 603. Treatment of certain income of cooperatives.
- Sec. 604. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.
- Sec. 605. Treatment of certain development income of cooperatives.

TITLE VII—ADDITIONAL PROVISIONS

- Sec. 701. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
- Sec. 702. Study of effectiveness of certain provisions by GAO.
- Sec. 703. Credit for production of Alaska natural gas.
- Sec. 704. Sale of gasoline and diesel fuel at duty-free sales enterprises.
- Sec. 705. Clarification of excise tax exemptions for agricultural aerial applicators.
- Sec. 706. Modification of rural airport definition.
- Sec. 707. Exemption from ticket taxes for transportation provided by seaplanes.

TITLE I—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 101. THREE-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking “January 1, 2004” and inserting “January 1, 2007”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 102. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) CLOSED-LOOP BIOMASS FACILITY.—

“(i) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term ‘qualified facility’ means any facility—

“(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

“(II) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to co-fire with coal or other biomass before January 1, 2007, as approved under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

“(ii) SPECIAL RULES.—In the case of a qualified facility described in clause (i)(II)—

“(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and

“(II) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.”, and

(2) by adding at the end the following new subparagraph:

“(D) BIOMASS FACILITY.—

“(i) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.

“(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

“(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this clause—

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

“(II) the 3-year period beginning after the date of the enactment of this subparagraph, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

“(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.”.

(b) DEFINITION OF BIOMASS.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

“(D) biomass (other than closed-loop biomass).”.

(2) BIOMASS DEFINED.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

“(5) BIOMASS.—The term ‘biomass’ means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

“(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),

“(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

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

(c) COORDINATION WITH SECTION 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

“(6) COORDINATION WITH SECTION 29.—The term ‘qualified facility’ shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.”.

(d) CLERICAL AMENDMENTS.—

(1) The heading for subsection (c) of section 45 is amended by inserting “AND SPECIAL RULES” after “DEFINITIONS”.

(2) The heading for subsection (d) of section 45 is amended by inserting “ADDITIONAL” before “DEFINITIONS”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 103. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

“(E) swine and bovine waste nutrients,

“(F) geothermal energy, and

“(G) solar energy.”.

(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

“(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term ‘swine and bovine waste nutrients’ means swine and bovine manure and litter, including bedding material for the disposition of manure.

“(7) GEOTHERMAL ENERGY.—The term ‘geothermal energy’ means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).”.

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

“(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine and bovine waste nutrients to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

“(F) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

“(i) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

“(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 104. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

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

“(A) ALLOWANCE OF CREDIT.—

“(i) IN GENERAL.—Except as otherwise provided in this subsection—

“(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

“(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

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

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

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

“(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

“(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

“(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

“(B) TRANSFER OF CREDIT.—

“(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

“(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

“(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

“(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.

“(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

“(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.”.

(b) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

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

(3) by inserting “(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of

2003)” after “project” in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: “This paragraph shall not apply with respect to any facility described in subsection (c)(3)(B)(i)(II).”, and

(5) by striking “TAX-EXEMPT BONDS,” in the heading and inserting “CERTAIN”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 105. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by adding at the end the following new subparagraph:

“(H) small irrigation power.”.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

“(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.”.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) SMALL IRRIGATION POWER.—The term ‘small irrigation power’ means power—

“(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

“(B) the installed capacity of which is less than 5 megawatts.”.

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

SEC. 106. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking “and” at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

“(I) municipal biosolids, and

“(J) recycled sludge.”.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

“(H) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

“(I) RECYCLED SLUDGE FACILITY.—

“(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

“(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.”.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating

paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

“(9) MUNICIPAL BIOSOLIDS.—The term ‘municipal biosolids’ means the residue or solids removed by a municipal wastewater treatment facility.

“(10) RECYCLED SLUDGE.—

“(A) IN GENERAL.—The term ‘recycled sludge’ means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

“(B) RECYCLED.—The term ‘recycled’ means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.”.

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

TITLE II—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES
SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT.

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

“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

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

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

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

“(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

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

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

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

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

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

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

“(2) INCREASE FOR FUEL EFFICIENCY.—

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

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

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

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

“(iv) \$2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

“(v) \$3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

“(vi) \$3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

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

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

“(i) In the case of a passenger automobile:
The 0000 model year city fuel economy is:

Table with 2 columns: 'If vehicle inertia weight class is:' and 'fuel economy is:'. Rows include weight classes from 1,500 to 7,000 lbs and corresponding mpg values.

“(ii) In the case of a light truck:
The 0000 model year city fuel economy is:

Table with 2 columns: 'If vehicle inertia weight class is:' and 'fuel economy is:'. Rows include weight classes from 1,500 to 7,000 lbs and corresponding mpg values.

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

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

“(A) which is propelled by power derived from one or more cells which convert chem-

ical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

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

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

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

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

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

“(E) which is made by a manufacturer.

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

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

“(2) CREDIT AMOUNT.—

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

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

Table with 2 columns: 'If percentage of the maximum available power is:' and 'The credit amount is:'. Rows include percentages from 4 to 30 and corresponding credit amounts.

“(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

Table with 2 columns: 'If percentage of the maximum available power is:' and 'The credit amount is:'. Rows include percentages from 10 to 60 and corresponding credit amounts.

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

Table with 2 columns: 'If percentage of the maximum available power is:' and 'The credit amount is:'. Rows include percentages from 20 to 50 and corresponding credit amounts.

“If percentage of the maximum available power is: The credit amount is:
 At least 50 percent but less than 60 percent \$5,500.
 At least 60 percent \$6,000.
 “(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

“If percentage of the maximum available power is: The credit amount is:
 At least 20 percent but less than 30 percent \$6,000.
 At least 30 percent but less than 40 percent \$7,000.
 At least 40 percent but less than 50 percent \$8,000.
 At least 50 percent but less than 60 percent \$9,000.
 At least 60 percent \$10,000.

“(B) INCREASE FOR FUEL EFFICIENCY.—
 “(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

- “(I) \$500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,
- “(II) \$1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,
- “(III) \$1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,
- “(IV) \$2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,
- “(V) \$2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy, and
- “(VI) \$3,000, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

“(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

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

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

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

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

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

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

| “If the model year is: | The increased credit amount is: | |
|------------------------|---------------------------------|----------|
| 2003 | | \$12,000 |
| 2004 | | \$10,000 |
| 2005 | | \$8,000 |
| 2006 | | \$6,000. |

“(D) DEFINITIONS.—

“(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C),

the term ‘applicable heavy duty hybrid motor vehicle’ means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

“(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term ‘heavy duty hybrid motor vehicle’ means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

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

“(II) A rechargeable energy storage system.

“(iii) MAXIMUM AVAILABLE POWER.—

“(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

“(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle’s total traction power. The term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

“(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

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

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

“(ii) a rechargeable energy storage system,

“(B) which, in the case of a passenger automobile or light truck—
 “(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and
 “(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

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

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

“(E) which is made by a manufacturer.

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

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

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

“(A) 40 percent, plus
 “(B) 30 percent, if such vehicle—

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

“(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

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

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

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

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

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

“(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

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

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

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

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

“(iv) which is made by a manufacturer.

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

“(5) CREDIT FOR MIXED-FUEL VEHICLES.—

“(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

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

“(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

“(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘mixed-fuel vehicle’

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

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

“(ii) either—

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

“(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

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

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

“(v) which is made by a manufacturer.

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

“(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘90/10 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

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

“(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

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

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

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

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

“(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

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

“(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

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

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

“(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under sub-

section (a) for such vehicle for the taxable year.

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

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

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

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

“(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

“(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the ‘unused credit year’), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

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

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

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

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

“(g) REGULATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

“(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

“(h) TERMINATION.—This section shall not apply to any property purchased after—

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

“(2) in the case of any other property, December 31, 2006.”

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking “and” at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting “, and”, and by adding at the end the following new paragraph:

“(29) to the extent provided in section 30B(f)(5).”

(2) Section 55(c)(2) is amended by inserting “30B(e),” after “30(b)(3)”.

(3) Section 6501(m) is amended by inserting “30B(f)(10),” after “30(d)(4).”

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

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

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

SEC. 202. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

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

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

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

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

“(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, the lesser of—

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

“(ii) \$1,500.

“(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

“(i) \$3,500, or

“(ii) \$6,000, if such vehicle is—

“(I) capable of a driving range of at least 100 miles on a single charge of the vehicle’s rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

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

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

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

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

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

(3) CONFORMING AMENDMENTS.—

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

(3) Section 55(c)(2), as amended by this Act, is amended by striking “30(b)(3)” and inserting “30(b)(2)”.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

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

“(A) which is—

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

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

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

(3) CONFORMING AMENDMENTS.—

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

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

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

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting “battery” after “qualified”.

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

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

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

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

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

“(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

“(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the “unused credit year”), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after the date of the enactment of this paragraph, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 203. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

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

“SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

“(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount

equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

“(b) LIMITATION.—The credit allowed under subsection (a)—

“(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed \$30,000, and

“(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed \$1,000.

“(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

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

“(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term ‘qualified clean-fuel vehicle refueling property’ has the same meaning given such term by section 179A(d).

“(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term ‘residential clean-fuel vehicle refueling property’ means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

“(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term ‘retail clean-fuel vehicle refueling property’ means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

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

“(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

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

“(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

“(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

“(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

“(i) CARRYFORWARD ALLOWED.—

“(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the “unused credit year” in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

“(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

“(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

“(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

“(l) TERMINATION.—This section shall not apply to any property placed in service—

“(1) in the case of property relating to hydrogen, after December 31, 2011, and

“(2) in the case of any other property, after December 31, 2007.”.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A is amended to read as follows:

“(f) TERMINATION.—This section shall not apply to any property placed in service—

“(1) in the case of property relating to hydrogen, after December 31, 2011, and

“(2) in the case of any other property, after December 31, 2007.”.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B), as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking “calendar year 2004” in clause (i) and inserting “calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen)”,

(B) by striking “2005” in clause (ii) and inserting “2006 (calendar year 2010 in the case of property relating to hydrogen)”, and

(C) by striking “2006” in clause (iii) and inserting “2007 (calendar year 2011 in the case of property relating to hydrogen)”.

(c) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

“In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting ‘production, storage, or dispensing’ for ‘storage or dispensing’ both places it appears.”.

(d) CONFORMING AMENDMENTS.—(1) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting “, and”, and by adding at the end the following new paragraph:

“(30) to the extent provided in section 30C(f).”.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting “30C(e),” after “30B(e)”.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

“Sec. 30C. Clean-fuel vehicle refueling property credit.”.

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

SEC. 204. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

“SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

“(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

“(b) DEFINITIONS.—For purposes of this section—

“(1) APPLICABLE AMOUNT.—The term ‘applicable amount’ means the amount determined in accordance with the following table:

| “In the case of any taxable year ending in— | The applicable amount is— |
|--|----------------------------------|
| 2003 | 30 cents |
| 2004 | 40 cents |
| 2005 and 2006 | 50 cents. |

“(2) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

“(3) GASOLINE GALLON EQUIVALENT.—The term ‘gasoline gallon equivalent’ means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

“(4) QUALIFIED MOTOR VEHICLE.—The term ‘qualified motor vehicle’ means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

“(5) SOLD AT RETAIL.—“(A) IN GENERAL.—The term ‘sold at retail’ means the sale, for a purpose other than resale, after manufacture, production, or importation.

“(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

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

“(D) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(E) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.”

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking “plus” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, plus”, and by adding at the end the following new paragraph:

“(16) the alternative fuel retail sales credit determined under section 40A(a).”

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

“(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending on or before the date of the enactment of such section.”

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

“Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

“(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—“(A) ELECTION TO ALLOCATE.—

“(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

“(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

“(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

“(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

“(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

“(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(i) such reduction, over

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

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking “30,000,000” each place it appears and inserting “60,000,000”.

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

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

“(A) IN GENERAL.—In the case of the small ethanol producer credit—

“(i) this section and section 39 shall be applied separately with respect to the credit, and

“(ii) in applying paragraph (1) to the credit—

“(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

“(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term ‘small ethanol producer credit’ means the credit allowable under subsection (a) by reason of section 40(a)(3).”

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting “or the small ethanol producer credit” after “employee credit”.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

“SEC. 87. ALCOHOL FUEL CREDIT.

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

“(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

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

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

“(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).”

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

SEC. 206. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding “or” at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

SEC. 207. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

“(i) CREDIT MAY BE TRANSFERRED.—

“(1) IN GENERAL.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

“(2) QUALIFIED ASSIGNEE.—For purposes of this subsection, the term ‘qualified assignee’ means any person who—

“(A) is liable for taxes imposed under section 4081,

“(B) is required to register under section 4101, and

“(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

“(3) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.”

(b) ALCOHOL FUELS CREDIT MAY BE TAKEN AGAINST MOTOR FUELS TAX LIABILITY.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 (relating to special provisions applicable to petroleum products) is amended by adding at the end the following new section:

“SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.

“(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the taxes imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent—

“(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(i) as a credit under section 40, and

“(2) the taxpayer or qualified assignee elects to claim such credit under this section.

“(b) ELECTION IRREVOCABLE.—Any election under subsection (a) shall be irrevocable.

“(c) REQUIRED STATEMENT.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the taxable periods with respect to which the credit may be claimed.”

(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking “or section 4091(c)” and inserting “section 4091(c), or section 4104”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

“Sec. 4104. Credit against motor fuels taxes.”

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

SEC. 208. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

“SEC. 40B. BIODIESEL USED AS FUEL.

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

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

“(1) BIODIESEL MIXTURE CREDIT.—

“(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

“(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

“(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage

point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

“(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

“(2) QUALIFIED BIODIESEL MIXTURE.—

“(A) IN GENERAL.—The term ‘qualified biodiesel mixture’ means a mixture of diesel and biodiesel V or biodiesel NV which—

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

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

“(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

“(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

“(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

“(II) for the taxable year in which such sale or use occurs.

“(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

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

“(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) BIODIESEL V DEFINED.—The term ‘biodiesel V’ means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compression-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

“(2) BIODIESEL NV DEFINED.—The term ‘biodiesel nv’ means the monoalkyl esters of long chain fatty acids derived from non-virgin vegetable oils or animal fats for use in compression-ignition (diesel) engines.

“(3) REGISTRATION REQUIREMENTS.—The terms ‘biodiesel V’ and ‘biodiesel NV’ shall only include a biodiesel which meets—

“(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

“(ii) the requirements of the American Society of Testing and Materials D6751.

“(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

“(A) IMPOSITION OF TAX.—If—

“(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

“(ii) any person—

“(I) separates such biodiesel from the mixture, or

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

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

“(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

“(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

“(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

“(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

“(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.”

“(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.”

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “, plus”, and by adding at the end the following new paragraph:

“(17) the biodiesel fuels credit determined under section 40B(a).”

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

“(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.”

(B) Section 196(c) is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

“(11) the biodiesel fuels credit determined under section 40B(a).”

(C) Section 6501(m), as amended by this Act, is amended by inserting “40B(e),” after “40(f).”

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

“Sec. 40B. Biodiesel used as fuel.”

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

“(f) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

“(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

“(2) TAX PRIOR TO MIXING.—

“(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry

a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

“(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

“(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

“(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

“(n) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).”.

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) BIODIESEL V MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after the date of the enactment of this Act, and before January 1, 2006.

(C) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

SEC. 209. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 703, is amended by adding at the end the following new section:

“SEC. 45N. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

“(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is \$250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

“(b) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term ‘qualified commercial power takeoff vehicle’ means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of

income (and is licensed and insured for such use).

“(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

“(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

“(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

“(C) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

“(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

“(2) an organization exempt from tax under section 501(a).

“(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

“(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.”.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by section 703, is amended by striking “plus” at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting “, plus”, and by adding at the end the following new paragraph:

“(25) the commercial power takeoff vehicles credit under section 45N(a).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 703, is amended by adding at the end the following new item:

“Sec. 45N. Commercial power takeoff vehicles credit.”.

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45N(b)(2) of such Code, as added by subsection (a).

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

TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 301. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

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

“SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

“(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the

credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—

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

“(i) in the case of a 30-percent home, \$1,250, and

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

“(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

“(i) 30-PERCENT HOME.—The term ‘30-percent home’ means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy.

“(ii) 50-PERCENT HOME.—The term ‘50-percent home’ means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.

“(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

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

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

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

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

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

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

“(3) QUALIFYING NEW HOME.—The term ‘qualifying new home’ means a dwelling—

“(A) located in the United States,

“(B) the construction of which is substantially completed after the date of the enactment of this section, and

“(C) the first use of which after construction is as a principal residence (within the meaning of section 121).

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

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

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

“(B) exterior windows (including skylights) and doors.

“(6) MANUFACTURED HOME INCLUDED.—The term ‘qualifying new home’ includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

“(d) CERTIFICATION.—

“(1) METHOD OF CERTIFICATION.—

“(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

“(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).

“(C) PERFORMANCE-BASED METHOD.—

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

“(I) heated by the same energy source and heating system type, and

“(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

“(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

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

“(A) in the case of a component-based method, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

“(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes.

“(3) FORM.—

“(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy perform-

ance calculation method to the specific circumstances of such qualifying new home.

“(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

“(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

“(4) REGULATIONS.—

“(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

“(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

“(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

“(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2007.”.

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

“(18) the new energy efficient home credit determined under section 45G(a).”.

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

“(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).”.

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

“(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—

No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of such section.”.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196, as amended by this Act, is amended by striking “and” at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting “, and”, and by adding after paragraph (11) the following new paragraph:

“(12) the new energy efficient home credit determined under section 45G(a).”.

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

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

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

SEC. 302. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

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

“SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

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

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

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

“(A) \$50, in the case of—

“(i) a clothes washer which is manufactured with at least a 1.26 MEF, or

“(ii) a refrigerator which consumes at least 10 percent less kWh per year than the energy conservation standards for refrigerators promulgated by the Department of Energy effective July 1, 2001, and

“(B) \$100, in the case of—

“(i) a clothes washer which is manufactured with at least a 1.42 MEF (at least 1.5 MEF for washers produced after 2004), or

“(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.

“(2) ELIGIBLE PRODUCTION.—

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

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

“(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

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

“(i) clothes washers described in paragraph (1)(A)(i),

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

“(iii) refrigerators described in paragraph (1)(A)(ii), and

“(iv) refrigerators described in paragraph (1)(B)(ii).

“(c) LIMITATION ON MAXIMUM CREDIT.—

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

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

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

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

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

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

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

“(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

“(B) a refrigerator described in subparagraph (A)(ii) or (B)(ii) of subsection (b)(1).

“(2) CLOTHES WASHER.—The term ‘clothes washer’ means a residential clothes washer, including a residential style coin operated washer.

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

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

“(e) SPECIAL RULES.—

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

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

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

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

“(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

“(2) with respect to all other qualified energy efficient appliances produced after December 31, 2006.”

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

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

(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting “, plus”, and by adding at the end the following new paragraph:

“(19) the energy efficient appliance credit determined under section 45H(a).”

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

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

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

SEC. 303. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

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

“(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

“(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

“(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

“(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

“(b) LIMITATIONS.—

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

“(A) \$2,000 for property described in subsection (d)(1),

“(B) \$2,000 for property described in subsection (d)(2),

“(C) \$1,000 for each kilowatt of capacity of property described in subsection (d)(4),

“(D) \$2,000 for property described in subsection (d)(5), and

“(E) for property described in subsection (d)(6)—

“(i) \$75 for each electric heat pump water heater,

“(ii) \$250 for each electric heat pump,

“(iii) \$250 for each advanced natural gas furnace,

“(iv) \$250 for each central air conditioner,

“(v) \$75 for each natural gas water heater, and

“(vi) \$250 for each geothermal heat pump.

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

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

“(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

“(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

“(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

“(ii) in the case of the energy efficiency ratio (EER)—

“(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

“(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

“(iii) are in effect at the time of the acquisition of the property.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

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

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

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

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

“(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

“(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term ‘qualified wind energy property expenditure’ means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

“(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

“(A) IN GENERAL.—The term ‘qualified Tier 2 energy efficient building property expenditure’ means an expenditure for any Tier 2 energy efficient building property.

“(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term ‘Tier 2 energy efficient building property’ means—

“(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

“(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

“(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

“(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

“(v) a natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

“(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

“(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling

unit shall be taken into account for purposes of this section.

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

“(e) SPECIAL RULES.—For purposes of this section—

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

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

“(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

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

“(3) CONDOMINIUMS.—

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

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

“(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

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

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

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

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

“(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by

any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

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

“(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.”

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

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

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

“(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.”

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)” and inserting “subsection (b)(3)”.

(B) Section 23(b)(4)(B) is amended by inserting “and section 25C” after “this section”.

(C) Section 24(b)(3)(B) is amended by striking “23 and 25B” and inserting “23, 25B, and 25C”.

(D) Section 25(e)(1)(C) is amended by inserting “25C,” after “25B,”.

(E) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25C”.

(F) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25C”.

(G) Section 904(h) is amended by striking “and 25B” and inserting “25B, and 25C”.

(H) Section 1400C(d) is amended by striking “and 25B” and inserting “25B, and 25C”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking “section 1400C” and inserting “sections 25C and 1400C”.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting “, 25Cs,” after “sections 23”.

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting “, and”, and by adding at the end the following new paragraph:

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

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting “and section 25C” after “this section”.

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

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

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 304. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

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

“(iii) qualified fuel cell property or qualified microturbine property.”

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

“(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

“(A) QUALIFIED FUEL CELL PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified fuel cell property’ means a fuel cell power plant that—

“(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

“(II) has an electricity-only generation efficiency greater than 30 percent.

“(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

“(I) 30 percent of the basis of such property, or

“(II) \$500 for each 0.5 kilowatt of capacity of such property.

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

“(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

“(B) QUALIFIED MICROTURBINE PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified microturbine property’ means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

“(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

“(I) 10 percent of the basis of such property, or

“(II) \$200 for each kilowatt of capacity of such property.

“(iii) STATIONARY MICROTURBINE POWER PLANT.—The term ‘stationary microturbine power plant’ means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

“(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

“(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

“(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

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

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

“(A) IN GENERAL.—The energy percentage is—

“(i) in the case of qualified fuel cell property, 30 percent, and

“(ii) in the case of any other energy property, 10 percent.”

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking “section 48(a)(4)(C)” and inserting “section 48(a)(5)(C)”.

(B) Section 48(a)(1) is amended by inserting “except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),” before “the energy”.

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

SEC. 305. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new section:

“SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

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

“(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

“(1) \$2.25, and

“(2) the square footage of the building with respect to which the expenditures are made.

“(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

“(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘energy efficient commercial building property expenditures’ means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

“(A) for which depreciation is allowable under section 167,

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

“(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1-1999 (described in paragraph (2)). Such term includes expenditures for labor

costs properly allocable to the onsite preparation, assembly, or original installation of the property.

“(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

“(A) IN GENERAL.—The term ‘energy efficient commercial building property’ means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1-1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (5).

“(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

“(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

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

“(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

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

“(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

“(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

“(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1-1999.

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

“(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1-1999 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

“(I) Natural ventilation.

“(II) Evaporative cooling.

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

“(IV) Daylighting.

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

“(VI) Improved fan system efficiency, including reductions in static pressure.

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

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

“(C) COMPUTER SOFTWARE.—

“(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

“(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term ‘qualified computer software’ means software—

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

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

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

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

“(4) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

“(5) CERTIFICATION.—

“(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

“(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with non-profit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

“(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the

basis of such property shall be reduced by the amount of the deduction so allowed.

“(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

“(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

“(1) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

“(2) the construction of which is not completed on or before December 31, 2009.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, and”, and by adding at the end the following new paragraph:

“(32) to the extent provided in section 179B(e).”.

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

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

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

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

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

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

“Sec. 179B. Energy efficient commercial buildings deduction.”.

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

SEC. 306. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

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

“SEC. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

“(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

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

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

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

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

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

“(e) BASIS REDUCTION.—

“(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

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

(b) CONFORMING AMENDMENTS.—

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

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

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

(3) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting “, and”, and by adding at the end the following new paragraph:

“(33) to the extent provided in section 179C(e)(1).”.

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

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

“Sec. 179C. Deduction for qualified new or retrofitted energy management devices.”.

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

SEC. 307. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

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

“(iv) any qualified energy management device.”.

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property

placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

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

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

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

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

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

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

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

“(iii) which produces—

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

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

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

“(v) which is placed in service after the date of the enactment of this paragraph, and before January 1, 2007.

“(B) SPECIAL RULES.—

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

“(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

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

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

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

“(iv) PUBLIC UTILITY PROPERTY.—

“(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

“(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term ‘combined heat and power system property’ includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

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

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

“(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending on or before the date of the enactment of such section.”

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

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

SEC. 309. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed \$300.

“(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of \$300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart

(other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

“(1) such component or combination of measures is installed in or on a dwelling—

“(A) located in the United States, and

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

“(2) the original use of such component or combination of measures commences with the taxpayer, and

“(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

“(e) CERTIFICATION.—

“(1) METHODS OF CERTIFICATION.—

“(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

“(B) PERFORMANCE-BASED METHOD.—

“(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

“(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

“(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

“(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

“(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

“(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

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

“(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a perma-

nent label affixed to the electrical distribution panel of the dwelling.

“(4) REGULATIONS.—

“(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

“(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

“(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

“(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

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

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

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

“(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

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

“(3) CONDOMINIUMS.—

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

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof)

with respect to a condominium project substantially all of the units of which are used as residences.

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

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

“(B) exterior windows (including skylights), and

“(C) exterior doors.

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

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

“(h) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2006.”

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

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

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

“(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.”

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)” and inserting “subsection (b)(3)”.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking “section 25C” and inserting “sections 25C and 25D”.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting “25D,” after “25C.”

(E) Section 25B(g)(2), as amended by this Act, is amended by striking “23 and 25C” and inserting “23, 25C, and 25D”.

(F) Section 26(a)(1), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(G) Section 904(h), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(H) Section 1400C(d), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting “, 25D,” after “sections 25C”.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting “25D,” after “25C.”

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (32), by striking the period at the end of paragraph (33) and in-

serting “; and”, and by adding at the end the following new paragraph:

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

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking “section 25C” and inserting “sections 25C and 25D”.

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

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

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 310. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by section 503, is amended by inserting after section 179D the following new section: “**SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.**

“(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

“(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed \$30.

“(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term ‘eligible resupplier’ means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

“(d) QUALIFIED WATER SUBMETERING DEVICE.—The term ‘qualified water submetering device’ means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

“(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

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

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

“(f) BASIS REDUCTION.—

“(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

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

“(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.”

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by section 503, is amended by striking “or” at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting “, or”, and by inserting after subparagraph (K) the following new subparagraph:

“(L) expenditures for which a deduction is allowed under section 179E.”

(2) Section 312(k)(3)(B), as amended by section 503, is amended by striking “or 179D” each place it appears in the heading and text and inserting “, 179D, or 179E”.

(3) Section 1016(a), as amended by section 503, is amended by striking “and” at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting “, and”, and by adding at the end the following new paragraph:

“(36) to the extent provided in section 179E(f)(1).”

(4) Section 1245(a), as amended by section 503, is amended by inserting “179E,” after “179D,” both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by section 503, is amended by inserting after the item relating to section 179D the following new item:

“Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 311. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

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

“(v) any qualified water submetering device.”

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

“(16) QUALIFIED WATER SUBMETERING DEVICE.—The term ‘qualified water submetering device’ means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).”

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

TITLE IV—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 401. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 451. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

“(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology

production credit of any taxpayer for any taxable year is equal to the product of—

“(1) the applicable amount of clean coal technology production credit, multiplied by

“(2) the applicable percentage of the kilowatt hours of electricity produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

“(b) APPLICABLE AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to \$0.0034.

“(2) INFLATION ADJUSTMENT.—For calendar years after 2004, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

“(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term ‘qualifying clean coal technology unit’ means a clean coal technology unit of the taxpayer which—

“(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

“(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

“(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

“(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

“(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

“(2) CLEAN COAL TECHNOLOGY UNIT.—The term ‘clean coal technology unit’ means a unit which—

“(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity,

“(B) uses coal to produce 75 percent or more of its thermal output as electricity,

“(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

“(D) has a maximum design net heat rate of not more than 9,500, and

“(E) meets the pollution control requirements of paragraph (3).

“(3) POLLUTION CONTROL REQUIREMENTS.—

“(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

“(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

“(I) subparagraph (B), or

“(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

“(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

“(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

“(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

“(ii) in the case of nitrogen oxide emissions—

“(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

“(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

“(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

“(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

“(A) shall be based on the design annual heat input to and the design annual net electrical output from such unit (determined without regard to such unit’s co-generation of steam),

“(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate X $[1 - \{(12,000 - \text{design coal heat content, Btu per pound}) / 1,000\} \times 0.013]$, and

“(C) shall be corrected for the site reference conditions of—

“(i) elevation above sea level of 500 feet,

“(ii) air pressure of 14.4 pounds per square inch absolute (psia),

“(iii) temperature, dry bulb of 63°F,

“(iv) temperature, wet bulb of 54°F, and

“(v) relative humidity of 55 percent.

“(5) HHV.—The term ‘HHV’ means higher heating value.

“(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

“(7) INFLATION ADJUSTMENT FACTOR.—

“(A) IN GENERAL.—The term ‘inflation adjustment factor’ means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

“(B) GDP IMPLICIT PRICE DEFLATOR.—The term ‘GDP implicit price deflator’ means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

“(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

“(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

“(1) IN GENERAL.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

“(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt

capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

“(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

“(A) to carry out the purposes of this subsection,

“(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

“(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

“(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance be placed in service as soon as possible, and

“(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

“(I) a site,

“(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

“(III) filings for all necessary preconstruction approvals,

“(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

“(V) such other factors that the Secretary determines are appropriate,

“(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

“(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

“(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.”

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting “, plus”, and by adding at the end the following new paragraph:

“(20) the qualifying clean coal technology production credit determined under section 45I(a).”

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back

to a taxable year ending on or before the date of the enactment of such section.”.

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

“Sec. 45I. Credit for production from a qualifying clean coal technology unit.”.

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

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 411. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “, and”, and by adding at the end the following new paragraph:

“(4) the qualifying advanced clean coal technology unit credit.”.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

“SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

“(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the term ‘qualifying advanced clean coal technology unit’ means an advanced clean coal technology unit of the taxpayer—

“(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

“(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

“(ii) which is acquired through purchase (as defined by section 179(d)(2)),

“(B) which is depreciable under section 167,

“(C) which has a useful life of not less than 4 years,

“(D) which is located in the United States,

“(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

“(F) which is not a qualifying clean coal technology unit, and

“(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

“(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

“(A) is originally placed in service by a person, and

“(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

“(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

“(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

“(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘advanced clean coal technology unit’ means a new, retrofit, or repowering unit of the taxpayer which—

“(A) is—

“(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

“(ii) an eligible pressurized fluidized bed combustion technology unit,

“(iii) an eligible integrated gasification combined cycle technology unit, or

“(iv) an eligible other technology unit, and

“(B) meets the carbon emission rate requirements of paragraph (6).

“(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term ‘eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit’ means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

“(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

“(B) has a design net heat rate of not more than 8,350 (8,750 in the case of units placed in service before 2009).

“(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term ‘eligible pressurized fluidized bed combustion technology unit’ means a clean coal technology unit using pressurized fluidized bed combustion technology which—

“(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

“(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013).

“(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term ‘eligible integrated gasification combined cycle technology unit’ means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

“(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

“(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

“(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

“(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term ‘eligible other technology unit’ means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

“(6) CARBON EMISSION RATE REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

“(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

“(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

“(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting ‘0.51’ and ‘0.459’ for ‘0.60’ and ‘0.54’, respectively.

“(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

“(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

“(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

“(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

“(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

“(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

“(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

“(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

“(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

“(A) to carry out the purposes of this subsection and section 45J,

“(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

“(C) to provide a certification process described in section 45I(e)(3)(C),

“(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 451(e)(3), and

“(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

“(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

“(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

“(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

“(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

“(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term ‘qualified investment’ means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

“(h) QUALIFIED PROGRESS EXPENDITURES.—

“(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

“(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term ‘progress expenditure property’ means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

“(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

“(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term ‘qualified progress expenditures’ means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

“(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term ‘qualified progress expenditures’ means the amount paid during the taxable year to another person for the construction of such property.

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

“(A) SELF-CONSTRUCTED PROPERTY.—The term ‘self-constructed property’ means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

“(B) NONSELF-CONSTRUCTED PROPERTY.—The term ‘nonself-constructed property’ means property which is not self-constructed property.

“(C) CONSTRUCTION, ETC.—The term ‘construction’ includes reconstruction and erec-

tion, and the term ‘constructed’ includes reconstructed and erected.

“(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

“(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

“(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.”

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:

“(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

“(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

“(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

“(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.”

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of such section.”

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) the portion of the basis of any qualifying advanced clean coal technology unit

attributable to any qualified investment (as defined by section 48A(g)).”

(2) Section 50(a)(4) is amended by striking “and (2)” and inserting “(2), and (6)”.

(3) Section 50(c) is amended by adding at the end the following new paragraph:

“(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.”

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

“Sec. 48A. Qualifying advanced clean coal technology unit credit.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 412. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

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

“SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

“(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

“(1) the applicable amount of advanced clean coal technology production credit, multiplied by

“(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

“(A) the kilowatt hours of electricity, plus

“(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

“(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

“(1) Where the qualifying advanced clean coal technology unit is producing electricity only:

“(A) In the case of a unit originally placed in service before 2009, if—

| “The design net heat rate is: | The applicable amount is: | |
|--|---------------------------------|--------------------------------|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 8,400 | \$.0060 | \$.0038 |
| More than 8,400 but not more than 8,550. | \$.0025 | \$.0010 |
| More than 8,550 but less than 8,750. | \$.0010 | \$.0010. |

“(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

| “The design net heat rate is: | The applicable amount is: | |
|--|---------------------------------|--------------------------------|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 7,770 | \$.0105 | \$.0090 |
| More than 7,770 but not more than 8,125. | \$.0085 | \$.0068 |

| “The design net heat rate is: | The applicable amount is: | |
|--------------------------------------|---------------------------------|--------------------------------|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| More than 8.125 but less than 8.350. | \$.0075 | \$.0055. |

“(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

| “The design net heat rate is: | The applicable amount is: | |
|--|---------------------------------|--------------------------------|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 7.380 | \$.0140 | \$.0115 |
| More than 7.380 but not more than 7.720. | \$.0120 | \$.0090. |

“(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

“(A) In the case of a unit originally placed in service before 2009, if—

| “The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---------------------------------|--------------------------------|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 40.6 percent. | \$.0060 | \$.0038 |
| Less than 40.6 but not less than 40 percent. | \$.0025 | \$.0010 |
| Less than 40 but not less than 39 percent. | \$.0010 | \$.0010. |

“(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

| “The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---------------------------------|--------------------------------|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 43.6 percent. | \$.0105 | \$.0090 |
| Less than 43.6 but not less than 42 percent. | \$.0085 | \$.0068 |
| Less than 42 but not less than 40.9 percent. | \$.0075 | \$.0055. |

“(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

| “The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---------------------------------|--------------------------------|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 44.2 percent. | \$.0140 | \$.0115 |
| Less than 44.2 but not less than 43.9 percent. | \$.0120 | \$.0090. |

“(c) INFLATION ADJUSTMENT.—For calendar years after 2004, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

“(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.”

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is

amended by striking “plus” at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting “, plus”, and by adding at the end the following new paragraph:

“(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).”

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of such section.”

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.”

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

“Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.”

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

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 421. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

“(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

“(1) ALLOWANCE OF CREDITS.—

“(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

“(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

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

“(ii) an organization described in section 1381(a)(2)(C),

“(iii) a public utility (as defined in section 136(c)(2)(B)),

“(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

“(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

“(vi) the Tennessee Valley Authority.

“(2) TRANSFER OF CREDIT.—

“(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

“(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

“(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

“(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

“(4) USE BY TVA.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

“(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

“(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

“(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

“(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE V—OIL AND GAS PROVISIONS

SEC. 501. OIL AND GAS FROM MARGINAL WELLS.

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

“SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

“(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

“(1) the credit amount, and

“(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

“(b) CREDIT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The credit amount is—
“(A) \$3 per barrel of qualified crude oil production, and
“(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

“(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

“(A) IN GENERAL.—The \$3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

“(i) the excess (if any) of the applicable reference price over \$15 (\$1.67 for qualified natural gas production), bears to

“(ii) \$3 (\$0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

“(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting ‘2002’ for ‘1990’).

“(C) REFERENCE PRICE.—For purposes of this paragraph, the term ‘reference price’ means, with respect to any calendar year—

“(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

“(ii) in the case of qualified natural gas production, the Secretary’s estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

“(C) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The terms ‘qualified crude oil production’ and ‘qualified natural gas production’ mean domestic crude oil or natural gas which is produced from a qualified marginal well.

“(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

“(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

“(B) PROPORTIONATE REDUCTIONS.—

“(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

“(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

“(3) DEFINITIONS.—

“(A) QUALIFIED MARGINAL WELL.—The term ‘qualified marginal well’ means a domestic well—

“(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

“(ii) which, during the taxable year—

“(I) has average daily production of not more than 25 barrel equivalents, and

“(II) produces water at a rate not less than 95 percent of total well effluent.

“(B) CRUDE OIL, ETC.—The terms ‘crude oil’, ‘natural gas’, ‘domestic’, and ‘barrel’

have the meanings given such terms by section 613A(e).

“(C) BARREL EQUIVALENT.—The term ‘barrel equivalent’ means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

“(d) OTHER RULES.—

“(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer’s revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

“(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

“(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

“(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.”

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting “, plus”, and by adding at the end the following new paragraph:

“(22) the marginal oil and gas well production credit determined under section 45K(a).”

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

“(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of such section.”

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking “There” and inserting “At the election of the taxpayer, there”.

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

“Sec. 45K. Credit for producing oil and gas from marginal wells.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 502. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

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

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

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

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

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

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

“(i) a gas processing plant,

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

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

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

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

“(C)(ii) 10”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 503. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

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

“SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

“(a) TREATMENT AS EXPENSE.—

“(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

“(2) LIMITATION.—

“(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

“(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such excess to 50,000 barrels.

“(b) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED CAPITAL COSTS.—The term ‘qualified capital costs’ means any costs which—

“(A) are otherwise chargeable to capital account, and

“(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on

the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

“(2) SMALL BUSINESS REFINER.—The term ‘small business refiner’ means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

“(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

“(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

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

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking “or” at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting “, or”, and by inserting after subparagraph (J) the following new subparagraph:

“(K) expenditures for which a deduction is allowed under section 179D.”

(2) Section 263A(c)(3) is amended by inserting “179C,” after “section”.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking “or 179C” each place it appears in the heading and text and inserting “, 179C, or 179D”.

(4) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting “, and”, and by adding at the end the following new paragraph:

“(35) to the extent provided in section 179D(d).”

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

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

“Sec. 179D. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.”

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 504. ENVIRONMENTAL TAX CREDIT.

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

“SEC. 45L. ENVIRONMENTAL TAX CREDIT.

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

“(b) MAXIMUM CREDIT.—

“(1) IN GENERAL.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year

with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

“(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

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

“(1) IN GENERAL.—The terms ‘small business refiner’ and ‘qualified capital costs’ have the same meaning as given in section 179D.

“(2) APPLICABLE PERIOD.—The term ‘applicable period’ means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

“(3) APPLICABLE EPA REGULATIONS.—The term ‘applicable EPA regulations’ means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

“(d) CERTIFICATION.—

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

“(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

“(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

“(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

“(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

“(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

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

“(f) COOPERATIVE ORGANIZATIONS.—

“(1) APPORTIONMENT OF CREDIT.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) of this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.

“(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

“(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

“(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.”

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting “, plus”, and by adding at the end the following new paragraph:

“(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).”

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

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

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

“Sec. 45L. Environmental tax credit.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 505. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

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

“(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 506. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking "2004" and inserting "2007".

SEC. 507. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.

"A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such expenses were incurred."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199. Amortization of geological and geophysical expenditures for domestic oil and gas wells."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 508. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.

"(a) IN GENERAL.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred."

"(b) DELAY RENTAL PAYMENTS.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 199A. Amortization of delay rental payments for domestic oil and gas wells."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 509. STUDY OF COAL BED METHANE.

(a) IN GENERAL.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the production of coal bed methane.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also esti-

mate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 510. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:

"(h) EXTENSION FOR OTHER FACILITIES.—

"(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) FACILITIES PRODUCING REFINED COAL.—

"(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

"(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

"(C) COVERED FACILITIES.—

"(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—

"(I) a qualified emission reduction, and

"(II) a qualified enhanced value.

"(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

"(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

"(iii) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).

"(3) WELLS PRODUCING VISCOUS OIL.—

"(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well not later than the close of the 3-year period beginning on the date such well is placed in service.

"(B) VISCOUS OIL.—The term 'viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

"(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

"(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

"(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

"(4) COALMINE METHANE GAS.—

"(A) IN GENERAL.—This section shall apply to coalmine methane gas—

"(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and

"(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.

"(B) COALMINE METHANE GAS.—For purposes of this paragraph, the term 'coalmine methane gas' means any methane gas which is—

"(i) liberated during qualified coal mining operations, or

"(ii) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.

"(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

"(D) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subparagraphs (B) and (C), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

"(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

"(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

"(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

"(6) CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be \$3 (without regard to subsection (b)(2))."

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting "(January 1, 2005, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))" after "January 1, 2003".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 511. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

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

“(iv) any natural gas distribution line.”.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

“(E)(iv) 20”.

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

TITLE VI—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 601. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.

(a) ONGOING STUDY.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from nontax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.

(b) REGULATORY RELIEF.—In connection with the study described in subsection (a), the Secretary of the Treasury should exercise the Secretary’s authority, as appropriate, to modify or suspend regulations that may impede an electric utility company’s ability to reorganize its capital stock structure to respond to a competitive marketplace.

(c) REPORTS.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2003, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report. Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary of the Treasury deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.

SEC. 602. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A is amended to read as follows:

“(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.”.

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

“(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer’s interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

“(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

“(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.”.

(c) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.—Paragraph (2) of section 468A(c) is amended to read as follows:

“(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.”.

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

SEC. 603. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking “or” at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

“(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

“(iii) from any nuclear decommissioning transaction,

“(iv) from any asset exchange or conversion transaction, or

“(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.”.

(2) DEFINITIONS AND SPECIAL RULES.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

“(E) For purposes of subparagraph (C)(ii)—

“(i) The term ‘open access transaction’ means any transaction meeting the open access requirements of any of the following subclasses with respect to a mutual or cooperative electric company:

“(I) The provision or sale of transmission service or ancillary services meets the open access requirements of this subclass only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

“(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclass only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

“(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclass only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclass (II).

“(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

“(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

“(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

“(v) For purposes of this subparagraph—

“(I) The term ‘transmission facility’ means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003).

“(II) The term ‘regional transmission organization’ includes an independent system operator.

“(III) The term ‘FERC’ means the Federal Energy Regulatory Commission.

“(F) The term ‘nuclear decommissioning transaction’ means—

“(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company’s interest in a nuclear power plant or nuclear power plant unit,

“(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

“(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

“(G) The term ‘asset exchange or conversion transaction’ means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

“(i) generating, transmitting, distributing, or selling electric energy, or

“(ii) producing, transmitting, distributing, or selling natural gas.”.

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

“(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

“(ii) For purposes of clause (i), the term ‘load loss transaction’ means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

“(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

“(iv) For purposes of clause (iii), a mutual or cooperative electric company’s annual load loss for each year of the recovery period is the amount (if any) by which—

“(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

“(II) the megawatt hours of electric energy sold during the base year to such members.

“(v) For purposes of clause (iv)(II), the term ‘base year’ means—

“(I) the calendar year preceding the start-up year, or

“(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

“(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

“(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

“(I) the first year that such electric company offers nondiscriminatory open access, or

“(II) the first year in which at least 10 percent of such electric company’s sales are not to members of such electric company.

“(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

“(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.”

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

“(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.”

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

“(c) CROSS REFERENCE.—

“For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).”

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

SEC. 604. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

“(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

“(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

“(A) any ordinary income derived from such transaction which would be required to

be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

“(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

“(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term ‘qualifying electric transmission transaction’ means any sale or other disposition before January 1, 2007, of—

“(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

“(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services, but only if such sale or disposition is to an independent transmission company.

“(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term ‘independent transmission company’ means—

“(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

“(B) a person—

“(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission’s rules applicable to regional transmission organizations, and

“(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

“(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

“(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

“(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 605. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking “or” at the end of clause (iv), by striking the period at the end of clause (v) and insert “, or”, and by adding at the end the following new clause:

“(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from non-conventional sources (within the meaning of section 29).”

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

TITLE VII—ADDITIONAL PROVISIONS

SEC. 701. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking “2004” and inserting “2005”.

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking “2004” and inserting “2005”.

SEC. 702. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government’s forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2003, and annually thereafter.

SEC. 703. CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

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

“SEC. 45M. ALASKA NATURAL GAS.

“(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

“(b) CREDIT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

“(A) \$3.25, over

“(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

“(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting ‘the calendar year ending before the date described in section 45M(g)(1)’ for ‘1990’).

“(c) ALASKA NATURAL GAS.—For purposes of this section, the term ‘Alaska natural gas’

means natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(l)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(l)).

“(d) RECAPTURE.—

“(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer’s tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—

“(A) such excess, or

“(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

“(2) SPECIAL RULES.—

“(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

“(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

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

“(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude for the period—

“(1) beginning with the later of—

“(A) January 1, 2010, or

“(B) the initial date for the interstate transportation of such Alaska natural gas, and

“(2) except with respect to subsection (d), ending with the date which is 15 years after the date described in paragraph (1).”

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (23) and inserting “, plus”, and by adding at the end the following new paragraph:

“(24) The Alaska natural gas credit determined under section 45M(a).”

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by

redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

“(A) IN GENERAL.—In the case of the Alaska natural gas credit—

“(i) this section and section 39 shall be applied separately with respect to the credit, and

“(ii) in applying paragraph (1) to the credit—

“(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

“(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term ‘Alaska natural gas credit’ means the credit allowable under subsection (a) by reason of section 45M(a).”

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting “or the Alaska natural gas credit” after “producer credit”.

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

“Sec. 45M. Alaska natural gas.”

SEC. 704. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.”

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

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

SEC. 705. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

“(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.”

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

“For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.”

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

“(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

“(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

“(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2002, and before January 1, 2004.

SEC. 706. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting “, or” and by adding at the end the following new sub-clause:

“(III) is not connected by paved roads to another airport.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2003.

SEC. 707. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2003.

Mr. BINGAMAN. Mr. President, I am pleased to join the Chairman and Ranking Member of the Finance Committee and the Chairman of the Energy and Natural Resources Committee as a sponsor of the Energy Tax Incentives Act of 2003, which we are introducing today.

The tax incentives we introduce today are designed to encourage commercial activities that will increase and diversify our energy supplies and help us to use those energy supplies more efficiently and productively. Our demand for energy continues to grow and we will need a broad portfolio of energy sources, including improved efficiency, to meet this demand. The energy tax package encompasses many of the diverse components that make up a comprehensive energy strategy. These include incentives for renewable resources, alternative transportation fuels and alternative fuel vehicles, energy efficient appliances and buildings, clean coal, domestic oil and gas production and infrastructure, as well as removing impediments to an integrated electric grid.

This bill reflects the work of the Finance Committee last year to develop a balanced package of energy tax provisions to complement the energy policy legislation developed by the Senate. The language of the bill is virtually identical to the tax sections of the Energy bill passed by the Senate last April. While new or improved versions of some of the provisions have been developed in the intervening months, this version provides a common starting point for any further refinements of the text. I look forward to participating in the Finance Committee's consideration of the energy tax package this year.

Mr. BAUCUS. Mr. President, I am pleased to join Chairman GRASSLEY in introducing the Energy Tax Incentives Act of 2003. The chairman and the ranking member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN, are also original sponsors of this legislation.

This legislation is very similar to the energy tax incentives bill which won overwhelming support on the Senate floor last April and provides a strong starting point for the Senate Finance Committee towards a mark-up of an energy tax bill.

The urgency for this legislation at this point in time is particularly critical. Gasoline prices in the U.S. are at record levels. Low inventories, high crude oil prices, recent cold weather and continuing industry concern about a possible war with Iraq have raised gas prices close to the highest price ever recorded. This situation is not expected to improve in the near future.

To help alleviate this situation, this bill proposes a balanced package of alternative energy, traditional energy production and energy efficiency incentives. This legislation begins from the premise that we may accomplish energy policy goals by targeting market incentives—in the form of tax deductions and credits—at certain investments. The bill would accomplish this in three ways. First, we create incentives for new production, especially production from important renewable sources. Second, we create incentives for the development of new technology. Third, we create incentives for energy conservation.

Through targeted market incentives we hope to encourage the development of alternative sources of production and technologies, thereby boosting our overall energy resources. This will help promote energy independence in the United States, which will contribute to both greater economic growth and national security. At the same time, by encouraging development of sources of renewable energy and energy efficiency, we will also encourage pollution reduction and improve human health and the environment.

I look forward to working with my colleagues on this important piece of legislation.

By Ms. COLLINS (for herself, Mr. MILLER, Mrs. DOLE, Mr.

MCCAIN, Mr. KERRY, Mr. CHAMBLISS, and Mr. SPECTER):

S. 598. A bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with Senators MILLER, DOLE, MCCAIN, KERRY, CHAMBLISS and SPECTER in introducing the David Jayne Medicare Homebound Modernization Act of 2003 to modernize Medicare's outdated "homebound" requirement that has impeded access to needed home health services for many of our Nation's elderly and disabled Medicare beneficiaries.

Health care in America has gone full circle. People are spending less time in institutions, and recovery and care for patients with chronic diseases and conditions have increasingly been taking place in the home. The highly skilled and often technically complex care that our home health agencies provide has enabled millions of our most vulnerable older and disabled individuals to avoid hospitals and nursing homes and stay just where they belong—in the comfort and security of their own homes.

Under current law, a Medicare patient must be considered "homebound" if he or she is to be eligible for home health services. While an individual is not actually required to be bedridden to qualify for benefits, his or her condition must be such that "there exists a normal inability to leave home." The statute does allow for absences from the home that are "infrequent" or of "relatively short duration." It also gives specific permission for the individual to leave home to attend medical appointments, adult day care or religious services.

Unfortunately, however, the statute does not define precisely what "infrequent" or "relatively short duration" means. It leaves it to the fiscal intermediaries to interpret just how many absences qualify as "frequent" and just how short those absences must be. Interpretations of this definition have therefore varied widely.

As a consequence, there have been far too many instances where an overzealous or arbitrary interpretation of the definition has turned elderly or disabled Medicare beneficiaries—who are dependent upon Medicare home health services and medical equipment for survival—into virtual prisoners in their own home.

The current homebound requirement is particularly hard on younger, disabled Medicare patients. For example, last year I met with David Jayne, a 41-year-old man with Lou Gehrig's disease, who is confined to a wheelchair and cannot swallow, speak or even breathe on his own. Mr. Jayne needs skilled nursing visits each week to enable him to remain independent and out of an inpatient facility. Despite his

disability, Mr. Jayne meets frequently with youth and church groups. Speaking through a computerized voice synthesizer, he gives inspirational talks about how the human spirit can endure and even overcome great hardship.

The Atlanta Journal Constitution ran a feature article on Mr. Jayne and his activities, including a report about how he had, with the help of family and friends, attended a football game to root for the University of Georgia Bulldogs. A few days later, at the direction of the fiscal intermediary, his home health agency—which had been sending a health care worker to his home for two hours, four mornings a week—notified him that he could no longer be considered homebound, and that his benefits were being cut off. While his benefits were subsequently reinstated due to the media attention given the case, this experience motivated him to launch a crusade to modernize the homebound definition and led him to found the National Coalition to Amend the Medicare Homebound Restriction.

The fact is that the current requirement reflects an outmoded view of life for persons who live with serious disabilities. The homebound criteria may have made sense thirty years ago, when an elderly or disabled person might have expected to live in the confines of their home—perhaps cared for by an extended family. The current definition, however, fails to reflect the technological and medical advances that have been made in supporting individuals with significant disabilities and mobility challenges. It also fails to reflect advances in treatment for seriously ill individuals that allow them brief periods of relative wellness.

It also fails to recognize that an individual's mental acuity and physical stamina can only be maintained by use, and that the use of the body and mind is encouraged by social interactions outside the four walls of a home.

The David Jayne Medicare Homebound Modernization Act of 2003 will create an exception to the homebound restriction based on the severity of the patient's functional limitations and clinical condition. The specific, limited exception to the homebound rule would apply to individuals who: one, have been certified by a physician as having a permanent and severe condition that will not improve; two, who will need assistance with three or more of the five activities of daily living, such as eating, dressing and bathing, for the rest of their lives; three, who require technological and/or personal assistance with the act of leaving home; and four, who are only able to leave home because the services provided through the home health benefit makes it possible for them to do so.

We believe that our legislation is budget neutral because it is specifically limited to individuals who are already eligible for Medicare and whose conditions require the assistance of a skilled nurse, therapist or home health

aide to make it functionally possible for them to leave the home. Our legislation does not expand Medicare eligibility—it simply gives people who are already eligible for the benefit their freedom.

This issue was first brought to my attention by former Senator Bob Dole, who has long been a vigorous advocate for people with disabilities, and I ask unanimous consent that the editorial Senator Dole wrote for the Washington Post last summer entitled “Imprisoned by Medicare” be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Our proposal is also supported by the Consortium of Citizens with Disabilities, the Visiting Nurse Associations of America, the National Association for Home Care, Advancing Independence: Modernizing Medicare and Medicaid, AIMM, the National Coalition to Amend the Medicare Homebound Restriction, the Paralyzed Veterans of America, and the Half the Planet Foundation.

Moreover, the David Jayne Medicare Homebound Modernization Act of 2003 is consistent with President Bush’s “New Freedom Initiative” which has, as its goal, the removal of barriers that impede opportunities for those with disabilities to integrate more fully into the community. By allowing reasonable absences from the home, our legislation will bring the Medicare home health benefit into the 21st Century, and I look forward to working with my colleagues to get it done.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 27, 2002]

IMPRISONED BY MEDICARE
(Bob Dole)

Heroes inspire us to achieve the unachievable, to leave America a better place for future generations. They remind us that contributing to family and community is our highest priority. I am fortunate to know such a hero, and his story has inspired me to help achieve his one simple wish before he dies—to change a Medicare restriction so that he and thousands of others who live with permanent and severe disabilities can leave their homes to see their children grow up and contribute to their community without losing life-sustaining home health services.

David Jayne was diagnosed with Lou Gehrig’s disease at age 27. Otherwise known as amyotrophic lateral sclerosis (ALS), this degenerative neuromuscular condition causes his muscles to atrophy, leaving him unable to eat, breathe or move on his own. Though his mobility is limited to moving three fingers, Jayne, now 41, has demonstrated to everyone who knows him or has read about him that the human spirit is indomitable.

I met David Jayne by chance at Reagan National Airport about a year ago. Attached to life support equipment and a computerized voice simulator because of his body’s deterioration at the hand of ALS, Jayne had traveled with the help of friends from his home in Rex, Ga., to meet with his elected members of Congress. He came to urge them to amend the Medicare homebound restriction.

The homebound rule was intended to deter abuse of the home health benefit by limiting services to only those individuals whose illnesses and disabilities are so severe that leaving the home would require “a considerable and taxing effort.” In the 1960s, when this rule was created, it reflected the limits of health care and technology at the time. It was incomprehensible then to think that someone with ALS or any severe and permanent disability could leave the home.

While the homebound restriction has not changed, the role of physicians and home health providers has. Nurses, doctors and home health administrators have been turned into watchdogs and given the responsibility to report any knowledge of their patients leaving their homes. And the awful reality of those receiving these services is that they must either lie or cheat just to enjoy fundamental liberties.

This nearly 40-year-old policy reflects an outmoded view of life for persons with disabilities. Thanks to advances in technology and greater community accessibility through the passage of the Americans with Disabilities Act (ADA), people with the most severe disabilities are able to leave their homes to go to work, volunteer in their communities and enjoy their family and friends. Unfortunately, Medicare policy has not kept pace with our times and is now punishing the very people it was intended to benefit. While Medicare has developed other and better policies to deter abuse, it has kept this outdated policy.

The Medicare statute does allow for absences from the home of “infrequent” or “relatively short duration.” But the vagueness of this allowance leaves it to Medicare contractors to interpret just how many absences qualify as “frequent” and just how short those absences might be. To err on the conservative side, contractors have stripped home health coverage from those most needing it, including David Jayne, whose life depends on a ventilator, intravenous feeding and daily care from a home health aide. Because Jayne’s story went public, his home health agency discontinued these life-sustaining services. They were only reinstated after members of Congress became involved and Jayne agreed to pay his home health provider for any claim denied by Medicare. But thousands of others live in fear of leaving their homes because of the stories that have been reported. In two heartbreaking cases, one mother’s services were cut off after she attended the funeral for her child, while another mother did not attend the funeral of her child because of fear of losing her home health care.

For millions of Americans, Medicare-covered home health services provide a less costly alternative to nursing home or hospital care. There are abuses that should be corrected, but not by extracting a price that no law-abiding American should ever have to pay.

David Jayne has inspired many people with his love and determination and his simple words, “Always wait another day because the next day will be better.” He inspired me to volunteer to try to help.

I urge the House of Representatives to amend this harsh restriction on individual freedom by including in the Medicare reform bill the David Jayne Amendment, carefully drafted by Rep. Ed Markey (D-Mass.) and Sen. Susan Collins (R-Maine), to do what we all know in our hearts is right, including all the appropriate safeguards to prevent abuse. And if this is not possible because of cost concerns, to adopt an amendment to provide for those who are severely and permanently disabled and who require the assistance of an attendant or a skilled nursing facility.

The amendment should give the Health and Human Services Department six months

to address the homebound rule and make recommendations on how to bring it up to date with today’s technology. Make no mistake, David Jayne is a prisoner—a prisoner in his specially designed wheelchair. His illness has robbed him of the ability to do anything without the aid of technology. Medicare shouldn’t act as jailer too. Thousands of David Jaynes across America are looking to the president, Congress and the Department of Health and Human Services for help.

By Mrs. LINCOLN (for herself,
Ms. COLLINS, and Mr. BINGAMAN):

S. 599. A bill to amend title XVIII of the Social Security Act to provide coverage under the Medicare program for diabetes laboratory diagnostic tests and other services to screen for diabetes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today to introduce the “Access to Diabetes Screening Services Act of 2003” with my friends Senators COLLINS and BINGAMAN. This bill will help to bring the epidemic of diabetes under control by providing Medicare coverage for laboratory diagnostic tests and other services which are used to screen for diabetes. Medicare cannot currently provide these screening services because they are prohibited to do so by Federal law.

Diabetes has reached epidemic proportions among adults in the United States. The latest figures published by the Centers for Disease Control, CDC, in the January 1, 2003, edition of the “Journal of the American Medical Association” show that 7.9 percent of the American population has diabetes. The CDC believes that if trends continue, more than 10 percent of all Americans will have diabetes by the year 2010. Even today our Nation is feeling the effects of this disease—diabetes is the Nation’s sixth leading cause of death.

Diabetes strikes even harder in our nation’s minority and emerging majority populations. Today, the CDC estimates that 11.9 percent of the African American population and nine percent of the Hispanic population has diabetes. Without a doubt, diabetes is now truly the epidemic of our time.

These rising rates are especially evident among our Nation’s aging population. Currently almost seven million Americans age 65 and older, or over 20 percent of seniors, have diabetes. Roughly 20 percent of seniors age 65 and older have a newly identified condition called pre-diabetes, which if left untreated will develop into diabetes. An additional 40,000 people living with diabetes and end-stage renal disease under the age of 65 participate in the Medicare program.

Even more distressing is the fact that approximately one third of the 7 million seniors with diabetes, or 2.3 million people, are undiagnosed. They simply do not know that they have this very serious condition—a condition whose complications include heart disease, stroke, vision loss and blindness, amputations, and kidney disease.

My own home State of Arkansas has had first-hand experience with the rising diabetes rates. Arkansas ranks

fifth in the Nation for diabetes incidence. Recent studies show that 8.9 percent of all Arkansas adults had diagnosed diabetes, and over one million Arkansans are at risk for undiagnosed diabetes.

Our Nation is not yet doing enough to manage this preventable and controllable disease. Last week, the National Institutes of Health, the CDC and the American Diabetes Association announced that the direct costs of treating diabetes grew by more than 50 percent between 1997 and 2002, from \$44 billion to \$91.8 billion. One of every ten dollars spent on healthcare in America is now spent on diabetes, and the average per capita cost of healthcare for a person living with diabetes is \$13,243 versus \$2,560 for a typical American without diabetes.

Those in the medical community and the federal government are only too aware of the rising prevalence and serious nature of diabetes. The Centers for Disease Control, National Institutes of Health, and the Department of Health and Human Services recently joined together in a national education campaign to inform people about diabetes and encourage people age 45 and older to get screened for diabetes.

Unfortunately, current law does not allow Medicare to reimburse for diabetes testing, even if a patient presents serious risk factors for diabetes such as obesity, high blood pressure, or high cholesterol. Most shockingly, even if a patient is experiencing early evidence of diabetes complications, such as blindness or kidney disease, Medicare still cannot reimburse a physician for diabetes testing.

This nonsensical omission of diabetes screening coverage is even more shocking in light of the fact that about 25 percent of the Medicare budget currently is devoted to providing medical care to seniors living with diabetes. In 1999, Arkansas spent \$1.6 billion on direct and indirect costs of diabetes. The amount Arkansas spent on diabetes in 2002 is undoubtedly higher in light of the cost data available. Why are we continuing to react to diabetes and its complications instead of proactively screening our Medicare beneficiaries for this common and costly disease? This screening can identify the disease, even before any symptoms have appeared, and has the potential to save and improve thousands of lives. In addition, this screening will potentially help prevent countless cases of end-stage renal disease, blindness and amputations—preventable complications of the diabetes that are draining Medicare of vital resources.

The American Association of Clinical Endocrinologists strongly believes that patients with diabetes should be identified as early as possible in their illness. We have the technology to do this through screening.

I cannot overstate the need for this legislation. When faced with the rising prevalence of diabetes, the high percentage of seniors who already have

the disease, the alarmingly high number of seniors who have diabetes but do not know it yet, the growing number of seniors living with preventable diabetes complications, and the high cost associated with diabetes treatment, it is obvious that Medicare should provide coverage for diabetes screening.

Our Nation must do more to battle the epidemic of diabetes through prevention, detection and treatment. This legislation will make detection of a deadly disease available to all Medicare enrollees. The American Diabetes Association has identified Medicare screening coverage as a top legislative priority, and I have worked closely with them to craft this legislation. I urge all of my colleagues to give serious consideration to cosponsoring and actively supporting the Diabetes Screening Act of 2003.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Arkansas, Senator LINCOLN, in introducing this important bill to provide Medicare coverage for laboratory diagnostic tests and other services used to screen for diabetes.

As the founder and co-chair of the Senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families. Diabetes is a devastating, lifelong condition that disproportionately affects the elderly, children and minorities. It is one of our Nation's most costly diseases in both human and economic terms, and is the leading cause of kidney failure, blindness in adults, and amputations not related to injury. Moreover, it is a major risk factor for stroke, heart disease and other chronic conditions. According to a new study released by the American Diabetes Association, diabetes cost our Nation \$132 billion last year, and health care spending for people with diabetes is almost double what it would be if they did not have diabetes.

Unfortunately, diabetes frequently goes undiagnosed. Of the more than 17 million Americans who have diabetes, 7 million of whom are 65 and older, it is estimated that as many as one third don't know it. They simply do not know that they have this very serious condition that places them at increased risk of developing devastating and costly complications such as blindness, kidney failure and amputations.

Moreover, an additional 16 million Americans have a newly identified condition known as "pre-diabetes," an increasingly common condition in which blood glucose levels are higher than normal, but not yet diabetic. Pre-diabetes dramatically raises the risk for developing Type 2 diabetes and increases the risk of heart disease by 50 percent. According to research supported by the Department of Health and Human Services, most people with pre-diabetes are likely to develop diabetes within a decade unless their condition is diagnosed and they make the

lifestyle changes necessary to reduce their risks for the disease.

Secretary of Health and Human Services Tommy Thompson has made diabetes prevention and management a key part of the Bush Administration's broader efforts to encourage a healthier America. As a part of this effort, the Centers for Disease Control and Prevention, the National Institutes of Health and the Department of Health and Human Services have joined together in a national education campaign to inform people about diabetes and encourage people age forty-five and older to get screened for diabetes.

Unfortunately, however, current law does not allow Medicare to pay for diabetes testing, even for patients with serious risk factors for diabetes, such as obesity, high blood pressure, or high cholesterol. Astoundingly, even if a patient is experiencing early evidence of diabetes complications such as blindness or kidney disease, Medicare will not pay for diabetes testing.

This coverage omission is particularly irrational given the fact that one out of every four Medicare dollars is currently spent on medical care for seniors who are living with diabetes.

Early detection and treatment are essential if we are to improve the quality of life for people with diabetes and prevent or delay the onset of the costly and sometimes deadly complications associated with the disease. We have the technology to identify diabetes even before the onset of any symptoms. These tests have the potential of improving and saving thousands of lives, not to mention countless Medicare dollars. It only makes sense that Medicare should cover them.

Both the American Diabetes Association and the American Association of Clinical Endocrinologists support our legislation, and I encourage all of our colleagues to join us as cosponsors.

By Mr. CRAIG (for himself and Mrs. FEINSTEIN):

S. 600. A bill to authorize the Secretary of Energy to cooperate in the international magnetic fusion burning plasma experiment, or alternatively to develop a plan for a domestic burning plasma experiment, for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, there should be no doubt that energy is vital to our economy and that it contributes to our wealth and strength as a nation. While it is true that human intelligence, a skilled workforce, and the human spirit are essential to our economy and to our future, without useable energy, these virtues are not, of themselves, tools to make a physical difference.

As we look out decades and centuries into the future, determining whether we will have enough energy and finding

the sources from which we will get it are extremely important endeavors. Will we get our energy from oil or from coal? Will it come from solar collectors and wind farms? Will it come from nuclear fission? I submit that the answer we work to provide to this question today will have a profound effect on the future quality of life for our children and grandchildren. This is part of the reason why energy policy is so controversial. It is because the stakes are so high.

Although fossil fuels will last for many decades yet—perhaps centuries—the reality is that we must begin to plan for the time when fossil fuels might not be so plentiful. Taken together, fossil fuels provide us with well over 70 percent of the energy we consume in this country. Much of that energy is imported. When you take oil, coal and natural gas out of the equation, what are our options for the long term future?

The significant potential contributors to our energy picture that are not fossil fuels are likely to be nuclear, hydropower, renewables such as solar, wind and geothermal, and fusion energy. We must pursue all of these options as if our future depended on it, because it does. It is in this context, that I want to focus my colleagues' attention today on the subject of fusion energy.

Fusion energy is the power of the sun and the stars and has been the subject of a decades-long research effort in the United States and around the world. The bad news is that the ultimate goal of practical fusion energy here on earth has proven to be far more difficult than the early pioneers of fusion research ever envisioned. But the good news is that there has been fantastic progress in the past decade, to the point where now there is almost no doubt that large excess amounts of fusion energy can be created in the laboratory. The question is: Can fusion energy be made practical and affordable?

When proven practical, fusion will be capable of producing huge amounts of base-load energy for our cities and our economy with no air or water pollution. Its fuel is virtually inexhaustible. It cannot blow up or melt down. Perhaps most tantalizingly, given our present circumstances, no nation or region will have a monopoly because everyone will have the fuel—a common component of water.

I am very proud today to stand with my good friend from California, Senator FEINSTEIN and introduce the Fusion Development Act of 2003. The Fusion Development Act of 2003 is meant to hasten the day when we can answer the question of practical and affordable fusion energy in the affirmative.

Last month, President Bush announced that the United States would be joining international negotiations on a major next step experiment on the road to fusion energy, known as the ITER project. One of the primary purposes of this bill is to authorize the

Secretary of Energy to participate fully in this international magnetic fusion burning plasma experiment called ITER.

ITER is intended to establish once and for all that magnetically-controlled fusion energy reactions can produce power plant-sized amounts of fusion energy and establish the scientific basis for doing so. Further, ITER will demonstrate some of the technologies necessary to construct a fusion power plant such as large superconducting magnets and plasma control systems. ITER will be an international science experiment of a scale and importance second to none.

The siting and financing of ITER are currently being negotiated between Europe, Japan, Russia, Canada and China. This bill will help give the Administration the license it needs to move forward and stake out a good place at the table of the ITER experiment. The importance of the ITER experiment dictates that the United States must have a strong position as the project moves forward.

In addition, our bill sets as a goal that the United States should develop the scientific, engineering and commercial infrastructure necessary to be competitive with other nations in this new frontier of energy. In this regard, it requires the Secretary of Energy to submit to Congress a plan to strengthen our existing fusion research efforts and to address the critically important issues of fusion materials and technology.

I ask that my colleagues devote their time to the extraordinarily important subject of our present and future energy supply. The deeper one delves into this subject, the more self-evident it becomes that fusion is a must-have technology for the future.

The bill we are introducing today will help bring us closer to the time when energy is less of a global political issue and energy production has minimal impact on our natural environment. Fusion is an important part of this vision and this goal. I therefore urge my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 79—DESIGNATING THE WEEK OF MARCH 9 THROUGH MARCH 15, 2003, AS "NATIONAL GIRL SCOUT WEEK"

Mrs. HUTCHISON (for herself, Ms. MIKULSKI, Ms. CANTWELL, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. SNOWE, Ms. MURKOWSKI, Mr. BAYH, Mr. WARNER, Mr. ALLEN, Mr. KOHL, Mr. INHOFE, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 79

Whereas March 12, is the anniversary of the founding of the Girl Scouts of the United States of America;

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girl Scouts has significantly contributed to the advancement of the United States;

Whereas the Girl Scouts is the preeminent organization for girls, dedicated to inspiring girls and young women to become model citizens in their communities with the highest ideals of character, conduct, and service to others;

Whereas the Girls Scouts, through its prestigious program, offers girls ages 5 through 17 a wealth of opportunities to develop strong values and skills that serve girls well into adulthood; and

Whereas on March 16, 1950, the Girl Scouts became the first national organization for girls to be granted a Federal charter by Congress: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 9 through March 15, 2003, as "National Girl Scout Week"; and

(2) requests the President to issue a proclamation designating such week as "National Girl Scout Week" and calling on the people of the United States to observe the anniversary of the Girl Scouts of the United States of America with appropriate ceremonies and activities.

Mrs. HUTCHISON. Mr. President, I rise today to submit an important resolution recognizing the Girl Scouts of America.

On March 12, 1912, Juliette Gordon Low assembled 18 girls in Savannah, Georgia for the first Girl Scout meeting. Girl Scouts of America has a current membership of nearly four million girls and adult volunteers.

It is the preeminent organization in the United States committed to inspiring girls and young women with the highest ideals of character, conduct, and service to others.

As the first National organization for girls to be granted a Federal charter by Congress, Girl Scouts offers girls of all ages, races, and socioeconomic backgrounds the opportunity to grow, develop friendships, and gain valuable life experiences.

The Girl Scout initiatives has enabled more than 50 million women in the United States to participate in community service projects, cultural exchanges, athletic events, and educational activities that teach self-confidence, responsibility, and integrity.

Girl Scout initiatives have reflected the Nation's changing social and economic climate. For example, the National organization recently began a campaign to encourage girls to develop an interest in math, science, and technology as a way to create greater diversity in the workforce and to help bridge the techno-gender divide.

Today, one in nine girls is a member of the Girl Scouts, and over two-thirds of our female doctors, lawyers, educators, and community leaders were once Girl Scouts. I am proud to say that I, too, was a Girl Scout.

I am pleased to be joined by my colleagues in introducing this legislation, which would designate the week beginning March 9, 2003, as "National Girl Scout Week."

Ms. MIKULSKI. Mr. President, I am very proud to join Senator HUTCHISON