

107TH CONGRESS
1ST SESSION

S. 1709

To amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2001

Mr. SMITH of New Hampshire (for himself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

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

3 **SECTION 1. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**
4 **PROPERTY USED IN BUSINESS.**

5 (a) IN GENERAL.—Part VI of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new section:

1 **“SEC. 199. ENERGY PROPERTY DEDUCTION.**

2 “(a) IN GENERAL.—There shall be allowed as a de-
3 duction for the taxable year an amount equal to the energy
4 efficient residential rental building property expenditures
5 made by a taxpayer for the taxable year.

6 “(b) LIMITATIONS.—

7 “(1) MAXIMUM AMOUNT OF DEDUCTION.—The
8 amount of energy efficient residential rental building
9 property expenditures taken into account under sub-
10 section (a) with respect to each dwelling unit shall
11 not exceed the amount specified in the following
12 table:

“In the case of:	Deduction amount:
30 percent property	\$1,500
50 percent property	\$4,000.

13 “(2) YEAR DEDUCTION ALLOWED.—The deduc-
14 tion under subsection (a) shall be allowed in the tax-
15 able year in which the construction, reconstruction,
16 or repair of the property is completed.

17 “(c) ENERGY EFFICIENT RESIDENTIAL RENTAL
18 BUILDING PROPERTY EXPENDITURES.—For purposes of
19 this section—

20 “(1) IN GENERAL.—The term ‘energy efficient
21 residential rental building property expenditures’
22 means an amount paid or incurred in connection

1 with construction, reconstruction, or repair of energy
 2 efficient residential rental building property—

3 “(A) for which depreciation is allowable
 4 under section 167,

5 “(B) which is located in the United States,
 6 and

7 “(C) the construction, reconstruction, or
 8 repair of which is completed by the taxpayer.

9 Such term includes expenditures for labor costs
 10 properly allocable to the onsite preparation, assem-
 11 bly, or original installation of the property.

12 “(2) ENERGY EFFICIENT RESIDENTIAL RENTAL
 13 BUILDING PROPERTY.—

14 “(A) IN GENERAL.—The term ‘energy effi-
 15 cient residential rental building property’ means
 16 any property which reduces total annual energy
 17 and power costs with respect to heating and
 18 cooling of the building by 50 percent or more
 19 in the case of 50 percent property or 30 percent
 20 or more in the case of 30 percent property in
 21 comparison to the projected energy cost of such
 22 property without such expenditures. Such com-
 23 parison shall be made using the procedures
 24 under subparagraph (B).

25 “(B) PROCEDURES.—

1 “(i) IN GENERAL.—For purposes of
2 subparagraph (A), energy usage and costs
3 shall be demonstrated either by a compo-
4 nent-based approach or a performance-
5 based approach.

6 “(ii) COMPONENT APPROACH.—Com-
7 ponent approach compliance shall be dem-
8 onstrated if all of the components of the
9 dwelling unit comply with the requirements
10 of prescriptive packages established by the
11 Secretary of Energy, in consultation with
12 the Administrator of the Environmental
13 Protection Agency, such that the majority
14 of the buildings which use such approach
15 achieve energy cost reductions equivalent
16 to the results of using the performance-
17 based approach under clause (iii).

18 “(iii) PERFORMANCE-BASED AP-
19 PROACH.—Performance-based compliance
20 shall be demonstrated if the 30 percent or
21 50 percent energy cost savings for heating
22 and cooling, as applicable, are met with re-
23 spect to a dwelling unit when compared to
24 the original condition of the dwelling unit.

1 “(iv) COMPUTER SOFTWARE.—Com-
2 puter software shall be used in support of
3 performance-based compliance under
4 clause (iii) and such software shall meet all
5 of the procedures and methods for calcu-
6 lating energy savings reductions that are
7 promulgated by the Secretary of Energy.
8 Such regulations on the specifications for
9 software and verification protocols shall be
10 based on the 2001 California Residential
11 Alternative Calculation Method Approval
12 Manual.

13 “(v) CALCULATION REQUIREMENTS.—
14 In calculating tradeoffs and energy per-
15 formance, the regulations prescribed under
16 this subparagraph shall prescribe for the
17 taxable year the costs per unit of energy
18 and power, such as kilowatt hour, kilowatt,
19 gallon of fuel oil, and cubic foot or Btu of
20 natural gas, which may be dependent on
21 time of usage. Such costs shall be based on
22 average current and future costs to the
23 consumer.

24 “(vi) APPROVAL OF SOFTWARE SUB-
25 MISSIONS.—The Secretary shall approve

software submissions that comply with the requirements of clause (iv).

“(vii) PROCEDURES FOR INSPECTION AND TESTING OF HOMES.—The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under clause (iv).

“(C) DETERMINATIONS OF COMPLIANCE.—A determination of compliance with respect to energy efficient residential rental building property made for the purposes of this paragraph shall be filed with the Secretary not later than 1 year after the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

“(D) COMPLIANCE.—

“(i) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy shall establish requirements for certifi-

1 cation and compliance procedures after ex-
 2 amining the requirements for energy con-
 3 sultants and home energy ratings providers
 4 specified by the Mortgage Industry Na-
 5 tional Accreditation Procedures for Home
 6 Energy Rating Systems.

7 “(ii) INDIVIDUALS QUALIFIED TO DE-
 8 TERMINE COMPLIANCE.—Individuals quali-
 9 fied to determine compliance shall be only
 10 those individuals who are recognized by an
 11 organization certified by the Secretary for
 12 such purposes. The Secretary may qualify
 13 a Home Energy Rating Systems Organiza-
 14 tion, a local building code agency, a State
 15 or local energy office, a utility, or other or-
 16 ganizations which meet the requirements
 17 prescribed under this section.

18 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC
 19 PROPERTY.—In the case of energy efficient residen-
 20 tial rental building property which is public prop-
 21 erty, the Secretary shall promulgate a regulation to
 22 allow the allocation of the deduction to the person
 23 primarily responsible for designing the improvements
 24 to the property in lieu of the public entity which is
 25 the owner of such property. Such person shall be

1 treated as the taxpayer for purposes of this sub-
2 section.

3 “(d) BASIS REDUCTION.—For purposes of this sub-
4 title, if a deduction is allowed under this section with re-
5 spect to any property, the basis of such property shall be
6 reduced by the amount of the deduction so allowed.

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

12 “(f) TERMINATION.—This section shall not apply
13 with respect to any property placed in service, or construc-
14 tion, reconstruction, repair, or erection completed, after
15 December 31, 2007.”.

16 (b) CONFORMING AMENDMENT.—Section 1016(a) of
17 the Internal Revenue Code of 1986 is amended by striking
18 “and” at the end of paragraph (26), by striking the period
19 at the end of paragraph (27) and inserting “, and”, and
20 by inserting the following new paragraph:

21 “(28) for amounts allowed as a deduction under
22 section 199(a).”.

23 (c) CLERICAL AMENDMENT.—The table of sections
24 for part VI of subchapter B of chapter 1 of the Internal

1 Revenue Code of 1986 is amended by adding at the end
2 the following new item:

“Sec. 199. Energy property deduction.”.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Department of
5 Energy out of amounts not already appropriated such
6 sums as necessary to carry out this section.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service, or
9 construction, reconstruction, repair, or erection completed,
10 in taxable years beginning after December 31, 2001.

11 **SEC. 2. CREDIT FOR CERTAIN NONBUSINESS ENERGY**
12 **PROPERTY.**

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

18 **“SEC. 25C. HIGHLY ENERGY-EFFICIENT NONBUSINESS EN-**
19 **ERGY PROPERTY.**

20 “(a) ALLOWANCE OF CREDIT.—

21 “(1) IN GENERAL.—In the case of an indi-
22 vidual, there shall be allowed as a credit against the
23 tax imposed by this chapter for the taxable year an
24 amount equal to the amount of residential energy

1 property expenditures made by the taxpayer for the
2 taxable year.

3 “(2) LIMITATION.—The credit allowed under
4 paragraph (1) with respect to a residence of a tax-
5 payer shall not exceed the amount specified in the
6 following table:

“Highly energy-efficient property:	Credit amount:
30 percent property	\$500
50 percent property	\$1,250.

7 “(3) YEAR CREDIT ALLOWED.—The credit
8 under paragraph (1) shall be allowed for the taxable
9 year in which the principal residence of the taxpayer
10 is certified as 50 percent property or 30 percent
11 property.

12 “(b) DEFINITIONS.—For purposes of this section—

13 “(1) RESIDENTIAL ENERGY PROPERTY EX-
14 PENDITURES.—The term ‘residential energy prop-
15 erty expenditures’ means expenditures made by the
16 taxpayer in connection with the construction, recon-
17 struction, or repair of a dwelling unit of the tax-
18 payer which results in the unit being a highly en-
19 ergy-efficient principal residence. Such term includes
20 expenditures for labor costs properly allocable to the
21 onsite preparation, assembly, or original installation
22 of the property.

23 “(2) HIGHLY ENERGY-EFFICIENT PRINCIPAL
24 RESIDENCE.—

1 “(A) IN GENERAL.—Property is a highly
2 energy-efficient principal residence if—

3 “(i) such property is located in the
4 United States,

5 “(ii) the property is the principal resi-
6 dence of the taxpayer, and

7 “(iii) such property is certified as
8 being 50 percent property or 30 percent
9 property.

10 “(B) 50 OR 30 PERCENT PROPERTY.—

11 “(i) IN GENERAL.—For purposes of
12 subparagraph (A), property is 50 percent
13 property or 30 percent property if the pro-
14 jected heating and cooling energy cost of
15 such property, measured in terms of aver-
16 age annual energy cost to taxpayer, is re-
17 duced by 50 percent, or 30 percent, respec-
18 tively, in comparison to the energy cost of
19 such property if expenditures made by the
20 taxpayer with respect to energy efficient
21 improvements to such property were not
22 made. Such comparison shall be deter-
23 mined using the procedures under clause
24 (ii).

25 “(ii) PROCEDURES.—

1 “(I) IN GENERAL.—For purposes
2 of clause (i), energy usage shall be
3 demonstrated either by a component-
4 based approach or a performance-
5 based approach.

6 “(II) COMPONENT APPROACH.—
7 Component approach compliance shall
8 be demonstrated if all of the compo-
9 nents of the property comply with the
10 requirements of prescriptive packages
11 established by the Secretary of En-
12 ergy, in consultation with the Admin-
13 istrator of the Environmental Protec-
14 tion Agency, such that the majority of
15 the buildings which use such approach
16 achieve energy cost reductions equiva-
17 lent to the results of using the per-
18 formance-based approach under sub-
19 clause (III).

20 “(III) PERFORMANCE-BASED AP-
21 PROACH.—Performance-based compli-
22 ance shall be demonstrated if the 30
23 percent or 50 percent energy cost sav-
24 ings for heating and cooling, as appli-
25 cable, are met with respect to a dwell-

1 ing unit when compared to the origi-
 2 nal condition of the property.

3 “(IV) COMPUTER SOFTWARE.—
 4 Computer software shall be used in
 5 support of performance-based compli-
 6 ance under subclause (III) and such
 7 software shall meet all of the proce-
 8 dures and methods for calculating en-
 9 ergy savings reductions that are pro-
 10 mulgated by the Secretary of Energy.
 11 Such regulations on the specifications
 12 for software and verification protocols
 13 shall be based on the 2001 California
 14 Residential Alternative Calculation
 15 Method Approval Manual.

16 “(3) PRINCIPAL RESIDENCE.—For purposes of
 17 this section—

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

21 “(i) no ownership requirement shall
 22 be imposed, and

23 “(ii) the period for which a building is
 24 treated as the principal residence of the
 25 taxpayer shall also include the 60-day pe-

1 riod ending on the 1st day on which it
 2 would (but for this subparagraph) first be
 3 treated as a principal residence.

4 “(B) MANUFACTURED HOUSING.—The
 5 term ‘residence’ shall include a dwelling unit
 6 which is manufactured housing.

7 “(c) SPECIAL RULES.—For purposes of this
 8 section—

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

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

21 “(B) There shall be allowable with respect
 22 to such expenditures to each of such individ-
 23 uals, a credit under subsection (a) for the tax-
 24 able year in which such calendar year ends in
 25 an amount which bears the same ratio to the

1 amount determined under subparagraph (A) as
2 the amount of such expenditures made by such
3 individual during such calendar year bears to
4 the aggregate of such expenditures made by all
5 of such individuals during such calendar year.

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

15 “(3) CONDOMINIUMS.—

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

23 “(B) CONDOMINIUM MANAGEMENT ASSO-
24 CIATION.—For purposes of this paragraph, the
25 term ‘condominium management association’

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

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

7 “(A) IN GENERAL.—Any expenditure oth-
8 erwise qualifying as a residential energy prop-
9 erty expenditure shall not be treated as failing
10 to so qualify merely because such expenditure
11 was made with respect to 2 or more dwelling
12 units.

13 “(B) LIMITS APPLIED SEPARATELY.—In
14 the case of any expenditure described in sub-
15 paragraph (A), the amount of the credit allow-
16 able under subsection (a) shall (subject to para-
17 graph (1)) be computed separately with respect
18 to the amount of the expenditure made for each
19 dwelling unit.

20 “(5) ALLOCATION IN CERTAIN CASES.—If less
21 than 80 percent of the use of an item is for nonbusi-
22 ness purposes, only that portion of the expenditures
23 for such item which is properly allocable to use for
24 nonbusiness purposes shall be taken into account.

1 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
2 ERGY FINANCING.—

3 “(A) REDUCTION OF EXPENDITURES.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in subparagraph (B), for purposes of
6 determining the amount of residential en-
7 ergy property expenditures made by any
8 individual with respect to any dwelling
9 unit, there shall not be taken into account
10 expenditures which are made from sub-
11 sidized energy financing.

12 “(ii) SUBSIDIZED ENERGY FINANC-
13 ING.—For purposes of clause (i), the term
14 ‘subsidized energy financing’ has the same
15 meaning given such term in section
16 48(a)(4)(C).

17 “(B) EXCEPTION FOR STATE PROGRAMS.—

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

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

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

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

9 “(f) TERMINATION.—This section shall not apply
 10 with respect to any taxable years beginning after Decem-
 11 ber 31, 2007.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Subsection (a) of section 1016 of the Inter-
 14 nal Revenue Code of 1986 as amended by section
 15 1(b), is amended by striking “and” at the end of
 16 paragraph (27), by striking the period at the end of
 17 paragraph (28) and inserting “, and”, and by add-
 18 ing at the end the following new paragraph:

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

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

“Sec. 25C. Nonbusiness energy property.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenditures made after Decem-
3 ber 31, 2001.

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