

107TH CONGRESS  
1ST SESSION

# S. 293

To amend the Internal Revenue Code of 1986 to provide a refundable tax credit against increased residential energy costs and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2001

Mr. HARKIN (for himself, Mr. DURBIN, Mrs. CLINTON, Mr. DORGAN, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a refundable tax credit against increased residential energy costs and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Home Energy Assist-  
5 ance Tax Act”.

6 **SEC. 2. REFUNDABLE TAX CREDIT AGAINST INCREASED**  
7 **RESIDENTIAL ENERGY COSTS.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable credits) is amended by redese-  
2 ignating section 35 as section 36 and by inserting after  
3 section 34 the following new section:

4 **“SEC. 35. CREDIT AGAINST INCREASED RESIDENTIAL EN-**  
5 **ERGY COSTS.**

6 “(a) GENERAL RULE.—In the case of an individual,  
7 there shall be allowed as a credit against the tax imposed  
8 by this subtitle for the taxable year an amount equal to  
9 50 percent of the amount paid or incurred during such  
10 taxable year for increased residential energy costs.

11 “(b) LIMITATIONS.—

12 “(1) BASED ON ADJUSTED GROSS INCOME.—

13 The amount of the credit allowable under subsection  
14 (a) for any taxable year shall be reduced (but not  
15 below zero) by 2 percentage points for each \$1,000  
16 (or fraction thereof) by which the taxpayer’s ad-  
17 justed gross income for the taxable year exceeds  
18 \$75,000.

19 “(2) MAXIMUM CREDIT PER HOUSEHOLD.—

20 “(A) IN GENERAL.—In the case of any  
21 household, the credit under subsection (a) shall  
22 be allowed only to the individual residing in  
23 such household who furnishes the largest por-  
24 tion (whether or not more than one-half) of the  
25 cost of maintaining such household.

1           “(B) DETERMINATION OF AMOUNT.—In  
2           the case of an individual described in subpara-  
3           graph (A), such individual shall, for purposes of  
4           determining the amount of the credit allowed  
5           under subsection (a), be treated as having paid  
6           or incurred during such taxable year for in-  
7           creased residential energy costs an amount  
8           equal to the sum of the amounts paid or in-  
9           curred for such costs by all individuals residing  
10          in such household (including any amount allo-  
11          cable to any such individual under subsection  
12          (d)).

13          “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
14          poses of this section—

15               “(1) INCREASED RESIDENTIAL ENERGY  
16               COSTS.—The term ‘increased residential energy  
17               costs’ means, with respect to any principal residence  
18               of the taxpayer located in the United States, the  
19               sum of—

20                       “(A) in the case of the purchase of any en-  
21                       ergy utility, the excess (if any) of—

22                               “(i) the cost incurred with respect to  
23                               such residence for the period of 4 monthly  
24                               billing cycles beginning on the starting

1 date of the first billing cycle of the utility  
 2 after October 30, 2000, over

3 “(ii) the sum of—

4 “(I) such cost for such period be-  
 5 ginning on the starting date of the  
 6 first billing cycle of the utility after  
 7 October 30, 1999, plus

8 “(II) \$100, plus

9 “(B) in the case of the direct purchase of  
 10 any fuel, the excess (if any) of—

11 “(i) the average county retail cost for  
 12 such fuel for the period beginning after  
 13 November 14, 2000, and ending before  
 14 March 16, 2001, over

15 “(ii) such average county retail cost  
 16 for the period beginning after November  
 17 14, 1999, and ending before March 16,  
 18 2000.

19 “(2) SPECIAL RULES REGARDING RESIDENTIAL  
 20 ENERGY COSTS.—

21 “(A) AVERAGE COUNTY RETAIL FUEL  
 22 COSTS.—For purposes of paragraph (1)(B), the  
 23 Secretary, in consultation with the Under Sec-  
 24 retary of Oceans and Atmosphere, the Secretary  
 25 of Energy, and the Secretary of Housing and

1 Urban Development, shall determine the aver-  
2 age county retail cost of any fuel by estimating  
3 the amount of fuel necessary to heat the aver-  
4 age size residence in the county and the average  
5 cost of such fuel. The Secretary shall make  
6 such determinations for each county not later  
7 than December 31, 2001.

8 “(B) ENERGY UTILITY COSTS FOR NEW  
9 RESIDENCES.—With respect to residences first  
10 placed in service during or after the 4-month  
11 period described in paragraph (1)(A)(ii)(I),  
12 such paragraph shall be applied by substituting  
13 the average county retail energy utility cost for  
14 such period as determined by the Secretary  
15 under rules similar to the rules under subpara-  
16 graph (A).

17 “(C) REDUCTION FOR GRANTS.—The  
18 amount of residential energy costs which may  
19 be taken into account shall be reduced by any  
20 amount received by the taxpayer for any resi-  
21 dential energy cost under any Federal, State, or  
22 local program.

23 “(3) PRINCIPAL RESIDENCE.—The term ‘prin-  
24 cipal residence’ has the same meaning as in section  
25 121, except that—

1           “(A) no ownership requirement shall be  
2 imposed, and

3           “(B) the principal residence must be used  
4 by the taxpayer as the taxpayer’s residence dur-  
5 ing the taxable year.

6           “(d) HOMEOWNERS ASSOCIATIONS.—The application  
7 of this section to homeowners associations (as defined in  
8 section 528(c)(1)) or members of such associations, and  
9 tenant-stockholders in cooperative housing corporations  
10 (as defined in section 216), shall be allowed by allocation,  
11 apportionment, or otherwise, to the individuals paying, di-  
12 rectly or indirectly, for the increased residential energy  
13 cost so incurred.

14           “(e) APPLICABILITY OF SECTION.—This section shall  
15 apply to taxable years beginning in 2001.”.

16           (b) CONFORMING AMENDMENT.—Section 1324(b)(2)  
17 of title 31, United States Code, is amended by striking  
18 “or” before “enacted” and by inserting before the period  
19 at the end “, or from section 35 of such Code”.

20           (c) CLERICAL AMENDMENTS.—The table of sections  
21 for subpart C of part IV of subchapter A of chapter 1  
22 of the Internal Revenue Code of 1986 is amended by strik-  
23 ing the item relating to section 35 and by adding at the  
24 end the following new items:

“Sec. 35. Credit against increased residential energy costs.  
“Sec. 36. Overpayments of tax.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning in 2001.

3 **SEC. 3. 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:

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

9 “(a) IN GENERAL.—There shall be allowed as a de-  
10 duction for the taxable year an amount equal to the sum  
11 of—

12 “(1) the amount determined under subsection  
13 (b) for each energy property of the taxpayer placed  
14 in service during such taxable year, and

15 “(2) the energy efficient commercial building  
16 amount determined under subsection (f).

17 “(b) AMOUNT FOR ENERGY PROPERTY.—

18 “(1) IN GENERAL.—The amount determined  
19 under this subsection for the taxable year for each  
20 item of energy property shall equal the amount spec-  
21 ified for such property in the following table:

| Description of property:                                    | Allowable amount is:                         |
|---|--|
| Elected solar hot water property .....                      | \$1.00 per each<br>kwh/year of sav-<br>ings. |
| Photovoltaic property .....                                 | \$4.50 per peak<br>watt.                     |
| Natural gas heat pump described in subsection<br>(d)(2)(C). | \$3,000.                                     |

| Description of property:  | Allowable amount is: |
|---|----------------------|
| Tier 2 energy-efficient building property (other than a natural gas heat pump). | \$1,500.             |
| Tier 1 energy-efficient building property .....                                 | \$750.               |

1           “(2) ELECTED SOLAR HOT WATER PROP-  
2           ERTY.—In the case of elected solar hot water prop-  
3           erty, the taxpayer may elect to substitute ‘\$21 per  
4           annual Therm of natural gas savings’ for ‘\$1.00 per  
5           each kwh/year of savings’ in the table contained in  
6           paragraph (1).

7           “(c) ENERGY PROPERTY DEFINED.—

8           “(1) IN GENERAL.—For purposes of this part,  
9           the term ‘energy property’ means any property—

10           “(A) which is—

11           “(i) solar energy property,

12           “(ii) Tier 2 energy-efficient building  
13           property, or

14           “(iii) Tier 1 energy-efficient building  
15           property,

16           “(B)(i) the construction, reconstruction, or  
17           erection of which is completed by the taxpayer,

18           or

19           “(ii) which is acquired by the taxpayer if  
20           the original use of such property commences  
21           with the taxpayer,

1           “(C) with respect to which depreciation (or  
2 amortization in lieu of depreciation) is allow-  
3 able, and

4           “(D) which meets the performance and  
5 quality standards, and the certification require-  
6 ments (if any), which—

7           “(i) have been prescribed by the Sec-  
8 retary by regulations (after consultation  
9 with the Secretary of Energy or the Ad-  
10 ministrator of the Environmental Protec-  
11 tion Agency, as appropriate),

12           “(ii) in the case of the energy effi-  
13 ciency ratio (EER)—

14           “(I) require measurements to be  
15 based on published data which is test-  
16 ed by manufacturers at 95 degrees  
17 Fahrenheit, and

18           “(II) do not require ratings to be  
19 based on certified data of the Air  
20 Conditioning and Refrigeration Insti-  
21 tute, and

22           “(iii) are in effect at the time of the  
23 acquisition of the property.

24           “(2) SOLAR ENERGY PROPERTY.—In the case  
25 of—

1           “(A) elected solar hot water property, the  
 2           regulations under paragraph (1)(D) shall be  
 3           based on the OG–300 Standard for the Annual  
 4           Performance of OG–300 Certified Systems of  
 5           the Solar Rating and Certification Corporation,  
 6           and

7           “(B) photovoltaics, such regulations shall  
 8           be based on the ASTM Standard E 1036 and  
 9           E 1036M–96 Standard Test Method for Elec-  
 10          tric Performance of Nonconcentrator Terres-  
 11          trial Photovoltaic Modules and Arrays Using  
 12          Reference Cells,

13          to the extent the Secretary determines such stand-  
 14          ards carry out the purposes of this section.

15          “(3) EXCEPTION.—Such term shall not include  
 16          any property which is public utility property (as de-  
 17          fined in section 46(f)(5) as in effect on the day be-  
 18          fore the date of the enactment of the Revenue Rec-  
 19          onciliation Act of 1990).

20          “(d) DEFINITIONS RELATING TO TYPES OF ENERGY  
 21          PROPERTY.—For purposes of this section—

22                 “(1) SOLAR ENERGY PROPERTY.—

23                         “(A) IN GENERAL.—The term ‘solar en-  
 24                         ergy property’ means equipment which uses  
 25                         solar energy—

1 “(i) to generate electricity, or

2 “(ii) to provide hot water for use in a  
3 structure.

4 “(B) ELECTED SOLAR HOT WATER PROP-  
5 ERTY.—

6 “(i) IN GENERAL.—The term ‘elected  
7 solar hot water property’ means property  
8 which is solar energy property by reason of  
9 subparagraph (A)(ii) and for which an  
10 election under this subparagraph is in ef-  
11 fect.

12 “(ii) ELECTION.—For purposes of  
13 clause (i), a taxpayer may elect to treat  
14 property described in clause (i) as elected  
15 solar hot water property.

16 “(C) PHOTOVOLTAIC PROPERTY.—The  
17 term ‘photovoltaic property’ means solar energy  
18 property which uses a solar photovoltaic process  
19 to generate electricity.

20 “(D) SWIMMING POOLS, ETC., USED AS  
21 STORAGE MEDIUM.—The term ‘solar energy  
22 property’ shall not include a swimming pool,  
23 hot tub, or any other energy storage medium  
24 which has a function other than the function of  
25 such storage.

1           “(E) SOLAR PANELS.—No solar panel or  
2 other property installed as a roof (or portion  
3 thereof) shall fail to be treated as solar energy  
4 property solely because it constitutes a struc-  
5 tural component of the structure on which it is  
6 installed.

7           “(2) TIER 2 ENERGY-EFFICIENT BUILDING  
8 PROPERTY.—The term ‘Tier 2 energy-efficient build-  
9 ing property’ means—

10           “(A) an electric heat pump water heater  
11 that yields an energy factor of 1.7 or greater,

12           “(B) an electric heat pump that has a  
13 heating seasonal performance factor (HSPF) of  
14 9 or greater and a seasonal energy efficiency  
15 ratio (SEER) of 15 or greater and an energy  
16 efficiency ratio (EER) of 12.5 or greater,

17           “(C) a natural gas heat pump that has a  
18 coefficient of performance of not less than 1.25  
19 for heating and not less than 0.70 for cooling,

20           “(D) a central air conditioner that has a  
21 seasonal energy efficiency ratio (SEER) of 15  
22 or greater and a EER of 12.5 or greater, and

23           “(E) a natural gas water heater that has  
24 an energy factor of at least 0.80.

1           “(3) TIER 1 ENERGY-EFFICIENT BUILDING  
2           PROPERTY.—The term ‘Tier 1 energy-efficient build-  
3           ing property’ means—

4                   “(A) an electric heat pump that has a  
5                   heating system performance factor (HSPF) of  
6                   7.5 or greater and a cooling seasonal energy ef-  
7                   ficiency ratio (SEER) of 13.5 or greater and an  
8                   energy efficiency ratio (EER) of 11.5 or great-  
9                   er,

10                   “(B) a central air conditioner that has a  
11                   cooling seasonal energy efficiency ratio (SEER)  
12                   of 13.5 or greater and an EER of 11.5 or  
13                   greater, and

14                   “(C) a natural gas water heater that has  
15                   an energy factor of at least 0.65.

16           “(e) SPECIAL RULES.—For purposes of this  
17           section—

18                   “(1) BASIS REDUCTION.—For purposes of this  
19                   subtitle, if a deduction is allowed under this section  
20                   with respect to any energy property, the basis of  
21                   such property shall be reduced by the amount of the  
22                   deduction so allowed.

23                   “(2) DOUBLE BENEFIT.—Property which  
24                   would, but for this paragraph, be eligible for deduc-  
25                   tion under more than one provision of this section

1 shall be eligible only under one such provision, the  
2 provision specified by the taxpayer.

3 “(f) ENERGY EFFICIENT COMMERCIAL BUILDING  
4 PROPERTY DEDUCTION.—

5 “(1) DEDUCTION ALLOWED.—For purposes of  
6 subsection (a)—

7 “(A) IN GENERAL.—The energy efficient  
8 commercial building property deduction deter-  
9 mined under this subsection is an amount equal  
10 to energy efficient commercial building property  
11 expenditures made by a taxpayer for the tax-  
12 able year.

13 “(B) MAXIMUM AMOUNT OF DEDUC-  
14 TION.—The amount of energy efficient commer-  
15 cial building property expenditures taken into  
16 account under subparagraph (A) shall not ex-  
17 ceed an amount equal to the product of—

18 “(i) \$2.25, and

19 “(ii) the square footage of the build-  
20 ing with respect to which the expenditures  
21 are made.

22 “(C) YEAR DEDUCTION ALLOWED.—The  
23 deduction under subparagraph (A) shall be al-  
24 lowed in the taxable year in which the construc-  
25 tion of the building is completed.

1           “(2) ENERGY EFFICIENT COMMERCIAL BUILD-  
2           ING PROPERTY EXPENDITURES.—For purposes of  
3           this subsection, the term ‘energy efficient commer-  
4           cial building property expenditures’ means an  
5           amount paid or incurred for energy efficient com-  
6           mercial building property installed on or in connec-  
7           tion with new construction or reconstruction of  
8           property—

9                   “(A) for which depreciation is allowable  
10                   under section 167,

11                   “(B) which is located in the United States,  
12                   and

13                   “(C) the construction or erection of which  
14                   is completed by the taxpayer.

15           Such property includes all residential rental prop-  
16           erty, including low-rise multifamily structures and  
17           single family housing property which is not within  
18           the scope of Standard 90.1–1999 (described in para-  
19           graph (3)). Such term includes expenditures for  
20           labor costs properly allocable to the onsite prepara-  
21           tion, assembly, or original installation of the prop-  
22           erty.

23           “(3) ENERGY EFFICIENT COMMERCIAL BUILD-  
24           ING PROPERTY.—For purposes of paragraph (2)—

1           “(A) IN GENERAL.—The term ‘energy effi-  
2           cient commercial building property’ means any  
3           property which reduces total annual energy and  
4           power costs with respect to the lighting, heat-  
5           ing, cooling, ventilation, and hot water supply  
6           systems of the building by 50 percent or more  
7           in comparison to a reference building which  
8           meets the requirements of Standard 90.1–1999  
9           of the American Society of Heating, Refrig-  
10          erating, and Air Conditioning Engineers and  
11          the Illuminating Engineering Society of North  
12          America using methods of calculation under  
13          subparagraph (B) and certified by qualified  
14          professionals as provided under paragraph (6).

15           “(B) METHODS OF CALCULATION.—The  
16          Secretary, in consultation with the Secretary of  
17          Energy, shall promulgate regulations which de-  
18          scribe in detail methods for calculating and  
19          verifying energy and power consumption and  
20          cost, taking into consideration the provisions of  
21          the 1998 California Nonresidential ACM Man-  
22          ual. These procedures shall meet the following  
23          requirements:

24                   “(i) In calculating tradeoffs and en-  
25                   ergy performance, the regulations shall

1 prescribe the costs per unit of energy and  
2 power, such as kilowatt hour, kilowatt, gal-  
3 lon of fuel oil, and cubic foot or Btu of  
4 natural gas, which may be dependent on  
5 time of usage.

6 “(ii) The calculational methodology  
7 shall require that compliance be dem-  
8 onstrated for a whole building. If some sys-  
9 tems of the building, such as lighting, are  
10 designed later than other systems of the  
11 building, the method shall provide that  
12 either—

13 “(I) the expenses taken into ac-  
14 count under paragraph (1) shall not  
15 occur until the date designs for all en-  
16 ergy-using systems of the building are  
17 completed,

18 “(II) the energy performance of  
19 all systems and components not yet  
20 designed shall be assumed to comply  
21 minimally with the requirements of  
22 such Standard 90.1–1999, or

23 “(III) the expenses taken into ac-  
24 count under paragraph (1) shall be a  
25 fraction of such expenses based on the

1 performance of less than all energy-  
2 using systems in accordance with  
3 clause (iii).

4 “(iii) The expenditures in connection  
5 with the design of subsystems in the build-  
6 ing, such as the envelope, the heating, ven-  
7 tilation, air conditioning and water heating  
8 system, and the lighting system shall be al-  
9 located to the appropriate building sub-  
10 system based on system-specific energy  
11 cost savings targets in regulations promul-  
12 gated by the Secretary of Energy which  
13 are equivalent, using the calculation meth-  
14 odology, to the whole building requirement  
15 of 50 percent savings.

16 “(iv) The calculational methods under  
17 this subparagraph need not comply fully  
18 with section 11 of such Standard 90.1-  
19 1999.

20 “(v) The calculational methods shall  
21 be fuel neutral, such that the same energy  
22 efficiency features shall qualify a building  
23 for the deduction under this subsection re-  
24 gardless of whether the heating source is a  
25 gas or oil furnace or an electric heat pump.

1           “(vi) The calculational methods shall  
2 provide appropriate calculated energy sav-  
3 ings for design methods and technologies  
4 not otherwise credited in either such  
5 Standard 90.1–1999 or in the 1998 Cali-  
6 fornia Nonresidential ACM Manual, in-  
7 cluding the following:

8                   “(I) Natural ventilation.

9                   “(II) Evaporative cooling.

10                   “(III) Automatic lighting controls  
11 such as occupancy sensors, photocells,  
12 and timeclocks.

13                   “(IV) Daylighting.

14                   “(V) Designs utilizing semi-con-  
15 ditioned spaces that maintain ade-  
16 quate comfort conditions without air  
17 conditioning or without heating.

18                   “(VI) Improved fan system effi-  
19 ciency, including reductions in static  
20 pressure.

21                   “(VII) Advanced unloading  
22 mechanisms for mechanical cooling,  
23 such as multiple or variable speed  
24 compressors.

1                   “(VIII) The calculational meth-  
2                   ods may take into account the extent  
3                   of commissioning in the building, and  
4                   allow the taxpayer to take into ac-  
5                   count measured performance that ex-  
6                   ceeds typical performance.

7                   “(C) COMPUTER SOFTWARE.—

8                   “(i) IN GENERAL.—Any calculation  
9                   under this paragraph shall be prepared by  
10                  qualified computer software.

11                  “(ii) QUALIFIED COMPUTER SOFT-  
12                  WARE.—For purposes of this subpara-  
13                  graph, the term ‘qualified computer soft-  
14                  ware’ means software—

15                         “(I) for which the software de-  
16                         signer has certified that the software  
17                         meets all procedures and detailed  
18                         methods for calculating energy and  
19                         power consumption and costs as re-  
20                         quired by the Secretary,

21                         “(II) which provides such forms  
22                         as required to be filed by the Sec-  
23                         retary in connection with energy effi-  
24                         ciency of property and the deduction  
25                         allowed under this subsection, and

1                   “(III) which provides a notice  
2                   form which summarizes the energy ef-  
3                   ficiency features of the building and  
4                   its projected annual energy costs.

5                   “(4) ALLOCATION OF DEDUCTION FOR PUBLIC  
6                   PROPERTY.—In the case of energy efficient commer-  
7                   cial building property installed on or in public prop-  
8                   erty, the Secretary shall promulgate a regulation to  
9                   allow the allocation of the deduction to the person  
10                  primarily responsible for designing the property in  
11                  lieu of the public entity which is the owner of such  
12                  property. Such person shall be treated as the tax  
13                  payer for purposes of this subsection.

14                  “(5) NOTICE TO OWNER.—The qualified indi-  
15                  vidual shall provide an explanation to the owner of  
16                  the building regarding the energy efficiency features  
17                  of the building and its projected annual energy costs  
18                  as provided in the notice under paragraph  
19                  (3)(C)(ii)(III).

20                  “(6) CERTIFICATION.—

21                  “(A) IN GENERAL.—Except as provided in  
22                  this paragraph, the Secretary, in consultation  
23                  with the Secretary of Energy, shall establish re-  
24                  quirements for certification and compliance pro-

1           cedures similar to the procedures under section  
2           25B(e)(7).

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

8           “(C) PROFICIENCY OF QUALIFIED INDIVID-  
9           UALS.—The Secretary shall consult with non-  
10          profit organizations and State agencies with ex-  
11          pertise in energy efficiency calculations and in-  
12          spections to develop proficiency tests and train-  
13          ing programs to qualify individuals to determine  
14          compliance.

15          “(g) REGULATIONS.—The Secretary shall promul-  
16          gate such regulations as necessary to take into account  
17          new technologies regarding energy efficiency and renew-  
18          able energy for purposes of determining energy efficiency  
19          and savings under this section.

20          “(h) APPLICATION OF SECTION.—This section shall  
21          apply with respect to—

22                  “(1) Tier 1 energy-efficient building property  
23                  placed in service before January 1, 2006,

24                  “(2) any other energy property placed in service  
25                  before January 1, 2008, and

1           “(3) any energy efficient commercial building  
2 property expenditures in connection with property—

3           “(A) the plans for which are certified  
4 under subsection (f)(6) before January 1, 2008,  
5 and

6           “(B) the construction of which is com-  
7 pleted before January 1, 2010.”.

8 (b) CONFORMING AMENDMENTS.—

9           (1) Section 48(a)(3)(A) of such Code is amend-  
10 ed to read as follows:

11           “(A) which is equipment used to produce,  
12 distribute, or use energy derived from a geo-  
13 thermal deposit (within the meaning of section  
14 613(e)(2)), but only, in the case of electricity  
15 generated by geothermal power, up to (but not  
16 including) the electrical transmission stage,”.

17           (2) Subparagraph (B) of section 168(e)(3) of  
18 such Code is amended—

19           (A) in clause (vi)(I)—

20           (i) by striking “section 48(a)(3)” and  
21 inserting “section 199(d)(1)”, and

22           (ii) by striking “clause (i)” and in-  
23 serting “such subparagraph (A)”, and

1 (B) in the last sentence, by striking “sec-  
2 tion 48(a)(3)” and inserting “section  
3 199(c)(3)”.

4 (3) Section 1016(a) of such Code is amended  
5 by striking “and” at the end of paragraph (26), by  
6 striking the period at the end of paragraph (27) and  
7 inserting “, and”, and by inserting the following new  
8 paragraph:

9 “(28) for amounts allowed as a deduction under  
10 section 199(a).”.

11 (c) CLERICAL AMENDMENT.—The table of sections  
12 for part VI of subchapter B of chapter 1 of such Code  
13 is amended by adding at the end the following new item:

“Sec. 199. Energy property deduction.”.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated to the Department of  
16 Energy out of amounts not already appropriated such  
17 sums as necessary to carry out this section.

18 (e) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as provided in para-  
20 graph (2), the amendments made by this section  
21 shall apply to property placed in service after De-  
22 cember 31, 2000.

23 (2) ENERGY EFFICIENT COMMERCIAL BUILDING  
24 PROPERTY.—In the case of energy efficient commer-  
25 cial building property, as defined in section

1 199(f)(3) of the Internal Revenue Code of 1986, as  
2 added by subsection (a), the amendments made by  
3 this section shall apply to expenditures after Sep-  
4 tember 30, 2001.

5 **SEC. 4. CREDIT FOR CERTAIN NONBUSINESS ENERGY**  
6 **PROPERTY.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-  
8 chapter A of chapter 1 of the Internal Revenue Code of  
9 1986 (relating to nonrefundable personal credits) is  
10 amended by inserting after section 25A the following new  
11 section:

12 **“SEC. 25B. NONBUSINESS ENERGY PROPERTY.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
14 dividual, there shall be allowed as a credit against the tax  
15 imposed by this chapter for the taxable year an amount  
16 equal to the sum of—

17 “(1) the amount determined under subsection

18 (b) for each qualified energy property of the tax-  
19 payer placed in service during such taxable year, and

20 “(2) the credit amount specified in the fol-  
21 lowing table for a new, highly energy-efficient prin-  
22 cipal residence:

| <b>“New, highly energy-efficient<br/>principal residence:</b> | <b>Credit amount:</b> |
|---|-----------------------|
| 30 percent property .....                                     | \$750                 |
| 50 percent property .....                                     | \$2,000.              |

1 “(b) AMOUNT FOR QUALIFIED ENERGY PROP-  
 2 ERTY.—

3 “(1) RESIDENTIAL ENERGY PROPERTY EX-  
 4 PENDITURES.—Except as provided in paragraph (2),  
 5 the amount determined under this subsection for the  
 6 taxable year for each item of qualified energy prop-  
 7 erty shall equal the amount of residential energy  
 8 property expenditures made by the taxpayer with re-  
 9 spect to such property during such taxable year.

10 “(2) SOLAR HOT WATER PROPERTY; PHOTO-  
 11 VOLTAIC PROPERTY.—

12 “(A) IN GENERAL.—In the case of solar  
 13 hot water property and photovoltaic property,  
 14 the amount determined under this subsection  
 15 for the taxable year shall equal the amount  
 16 specified for such property in the following  
 17 table:

| Description of property:               | Allowable amount is:                      |
|--|---|
| Elected solar hot water property ..... | 35¢ per each<br>kwh/year of sav-<br>ings. |
| Photovoltaic property .....            | \$1.50 per peak<br>watt.                  |

18 “(B) ELECTED SOLAR HOT WATER PROP-  
 19 ERTY.—In the case of elected solar hot water  
 20 property, the taxpayer may elect to substitute  
 21 ‘\$7 per annual Therm of natural gas savings’

1 for ‘35¢ per each kwh/year of savings’ in the  
 2 table contained in subparagraph (A).

3 “(3) MAXIMUM AMOUNT.—In the case of prop-  
 4 erty described in the following table, the amount of  
 5 expenditures taken into account under paragraph  
 6 (1) and the amount determined under paragraph (2)  
 7 for the taxable year for each item of qualified energy  
 8 property with respect to a dwelling unit shall not ex-  
 9 ceed the amount specified for such property in such  
 10 table:

| “Description of property item:  | Maximum allowable credit amount is: |
|---|-------------------------------------|
| Tier 2 energy-efficient building property (other than a natural gas heat pump). | \$500.                              |
| Natural gas heat pump described in section 199(d)(2)(C).                        | \$1,000.                            |
| Tier 1 energy-efficient building property .....                                 | \$ 250.                             |
| Solar hot water property .....  | \$1,000.                            |
| Photovoltaic property .....   | \$6,000.                            |

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

12 “(1) RESIDENTIAL ENERGY PROPERTY EX-  
 13 PENDITURES.—The term ‘residential energy prop-  
 14 erty expenditures’ means expenditures made by the  
 15 taxpayer for qualified energy property installed on or  
 16 in connection with a dwelling unit which—

17 “(A) is located in the United States, and

18 “(B) is used by the taxpayer as a resi-  
 19 dence.

1 Such term includes expenditures for labor costs  
2 properly allocable to the onsite preparation, assem-  
3 bly, or original installation of the property.

4 “(2) QUALIFIED ENERGY PROPERTY.—

5 “(A) IN GENERAL.—The term ‘qualified  
6 energy property’ means—

7 “(i) energy-efficient building property,

8 “(ii) solar hot water property, and

9 “(iii) photovoltaic property.

10 “(B) SWIMMING POOL, ETC., USED AS  
11 STORAGE MEDIUM; SOLAR PANELS.—For pur-  
12 poses of this paragraph, the provisions of sub-  
13 paragraphs (D) and (E) section 199(d)(1) shall  
14 apply.

15 “(C) REQUIRED STANDARDS.—Property  
16 described under subparagraph (A) shall meet  
17 the performance and quality standards and cer-  
18 tification standards of paragraphs (1)(D) and  
19 (2) of section 199(e).

20 “(3) ENERGY-EFFICIENT BUILDING PROP-  
21 ERTY.—The term ‘energy-efficient building property’  
22 has the same meaning given the terms ‘Tier 2 en-  
23 ergy-efficient property’ and ‘Tier 1 energy-efficient  
24 property’ in paragraphs (2) and (3) of section  
25 199(d), respectively.

1           “(4) SOLAR HOT WATER PROPERTY.—The term  
2           ‘solar hot water property’ means property which,  
3           when installed in connection with a structure, uses  
4           solar energy for the purpose of providing hot water  
5           for use within such structure.

6           “(5) PHOTOVOLTAIC PROPERTY.—The term  
7           ‘photovoltaic property’ has the same meaning given  
8           such term in section 199(d)(1)(C).

9           “(6) RESIDENCE.—For purposes of paragraph  
10          (1)(B)—

11           “(A) IN GENERAL.—The term ‘residence’  
12           has the same meaning as when the term ‘prin-  
13           cipal residence’ is used in section 121, except  
14           no ownership requirement shall be imposed.

15           “(B) MANUFACTURED HOUSING.—The  
16           term ‘residence’ shall include a dwelling unit  
17           which is manufactured housing.

18          “(7) HIGHLY ENERGY-EFFICIENT PRINCIPAL  
19          RESIDENCE.—

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

22           “(i) such property is located in the  
23           United States,

24           “(ii) the use of such property com-  
25           mences with the taxpayer and is, at the

1 time of such use, the principal residence of  
2 the taxpayer, and

3 “(iii) such property is certified before  
4 such use commences as being 50 percent  
5 property or 30 percent property.

6 “(B) 50 OR 30 PERCENT PROPERTY.—

7 “(i) IN GENERAL.—For purposes of  
8 subparagraph (A), property is 50 percent  
9 property or 30 percent property if the pro-  
10 jected heating and cooling energy usage of  
11 such property, measured in terms of aver-  
12 age annual energy cost to taxpayer, is re-  
13 duced by 50 percent, or 30 percent, respec-  
14 tively, in comparison to the energy usage  
15 of the standard design reference house as  
16 determined using the procedures under  
17 clause (iv).

18 “(ii) STANDARD DESIGN REFERENCE  
19 HOUSE.—For purposes of this paragraph,  
20 the term ‘standard design reference house’  
21 means a dwelling which conforms with the  
22 standards of chapter 4 of the 2000 Inter-  
23 national Energy Conservation Code of the  
24 International Code Council and the min-  
25 imum equipment efficiency standards pro-

1 mulgated by the Department of Energy  
2 under the National Appliance Energy Con-  
3 servation Act.

4 “(iii) ENERGY EFFICIENT REFERENCE  
5 HOUSE.—For purposes of this paragraph,  
6 the term ‘energy efficient reference house’  
7 means a design of a dwelling which uses  
8 the same heating fuel type as the proposed  
9 design and which uses minimum standards  
10 equipment, as required by the Department  
11 of Energy under the National Appliance  
12 Energy Conservation Act and which  
13 achieves, on average over fuel type and  
14 house geometry, the required 30 percent or  
15 50 percent reductions in annual energy  
16 cost as calculated using the procedures  
17 under clause (iv).

18 “(iv) PROCEDURES.—

19 “(I) IN GENERAL.—For purposes  
20 of clause (i), energy usage shall be  
21 demonstrated either by a component-  
22 based approach or a performance-  
23 based approach.

24 “(II) COMPONENT APPROACH.—  
25 Compliance by the component ap-

1           proach is achieved when all of the  
2           components of the house comply with  
3           the requirements of prescriptive pack-  
4           ages established by the Secretary of  
5           Energy, in consultation with the Ad-  
6           ministrators of the Environmental Pro-  
7           tection Agency, such that they are  
8           equivalent, for the strong majority of  
9           houses which can use this method, to  
10          the results of using the performance-  
11          based approach of subclause (III) to  
12          achieve the required reduction in en-  
13          ergy usage.

14                   “(III) PERFORMANCE-BASED AP-  
15                   PROACH.—Performance-based compli-  
16                   ance shall be demonstrated in terms  
17                   of equivalent or less energy usage  
18                   when compared to the energy efficient  
19                   reference house of the same heating  
20                   fuel type as the taxpayer’s house or  
21                   through an alternate method pre-  
22                   scribed by the Secretary which yields  
23                   equivalent results.

24                   “(IV) COMPUTER SOFTWARE.—  
25                   Computer software shall be used in

1 support of performance-based compli-  
2 ance under subclause (III) and such  
3 software shall meet all of the proce-  
4 dures and methods for calculating en-  
5 ergy savings reductions that are pro-  
6 mulgated by the Secretary of Energy.  
7 Such regulations on the specifications  
8 for software and verification protocols  
9 shall be based on the 1998 California  
10 Residential Alternative Calculation  
11 Method Approval Manual.

12 “(V) FUEL PARITY.—In the case  
13 of both the component and the per-  
14 formance-based approaches, and any  
15 software used in support of such ap-  
16 proach, the Secretary shall assure fuel  
17 parity by requiring both the energy ef-  
18 ficient reference house and the pre-  
19 scriptive package under subclause (II)  
20 to employ the same envelope energy  
21 efficiency measures for a house heated  
22 by a gas furnace as for a house heat-  
23 ed by an electric air source heat pump  
24 or by an oil furnace or boiler; and, for  
25 equipment efficiency, to employ elec-

1           tric, oil, or gas equipment efficiency of  
2           corresponding efficiency improvement.  
3           Such determination of corresponding  
4           efficiency improvement shall be made  
5           on a linear scale between the min-  
6           imum standard equipment efficiency  
7           and the best available marketplace  
8           technology efficiency as determined by  
9           the Secretary after considering the in-  
10          formation provided by the Air Condi-  
11          tioning and Refrigeration Institute  
12          (ARI) and the Gas Appliance Manu-  
13          facturers Association (GAMA) guides  
14          for the respective electric, oil, and  
15          natural gas equipment of such type  
16          (such as heating and cooling).

17                   “(VI) APPROVAL OF SOFTWARE  
18                   SUBMISSIONS.—The Secretary shall  
19                   approve software submissions that  
20                   comply with the calculation require-  
21                   ments of subclause (IV).

22                   “(VII) PROCEDURES FOR IN-  
23                   SPECTION AND TESTING OF HOMES.—  
24                   The Secretary shall ensure that proce-  
25                   dures for the inspection and testing

1                   for compliance comply with the cal-  
2                   culation requirements under subclause  
3                   (IV).

4                   “(C) DETERMINATIONS OF COMPLIANCE.—

5                   A determination of compliance made for the  
6                   purposes of this paragraph shall be filed with  
7                   the Secretary within 1 year of the date of such  
8                   determination and shall include the TIN of the  
9                   certifier, the address of the building in compli-  
10                  ance, and the identity of the person for whom  
11                  such determination was performed. Determina-  
12                  tions of compliance filed with the Secretary  
13                  shall be available for inspection by the Sec-  
14                  retary of Energy.

15                  “(D) COMPLIANCE.—

16                  “(i) IN GENERAL.—The Secretary, in  
17                  consultation with the Secretary of Energy  
18                  shall establish requirements for certifi-  
19                  cation and compliance procedures after ex-  
20                  amining the requirements for energy con-  
21                  sultants and home energy ratings providers  
22                  specified by the Mortgage Industry Na-  
23                  tional Accreditation Procedures for Home  
24                  Energy Rating Systems.

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

12          “(E) PRINCIPAL RESIDENCE.—For pur-  
13          poses of this paragraph—

14               “(i) IN GENERAL.—The term ‘prin-  
15               cipal residence’ has the same meaning as  
16               when used in section 121, except that the  
17               period for which a building is treated as  
18               the principal residence of the taxpayer  
19               shall also include the 60-day period ending  
20               on the 1st day on which it would (but for  
21               this subparagraph) first be treated as a  
22               principal residence.

23               “(ii) MANUFACTURED HOUSING.—The  
24               term ‘residence’ shall include a dwelling  
25               unit which is manufactured housing.

1       “(d) SPECIAL RULES.—For purposes of this  
2 section—

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

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

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

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

10           “(3) CONDOMINIUMS.—

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

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

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

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

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

15          “(5) ALLOCATION IN CERTAIN CASES.—If less  
16          than 80 percent of the use of an item is for nonbusi-  
17          ness purposes, only that portion of the expenditures  
18          for such item which is properly allocable to use for  
19          nonbusiness purposes shall be taken into account.  
20          For purposes of this paragraph, use for a swimming  
21          pool shall be treated as use which is not for nonbusi-  
22          ness purposes.

23          “(6) COORDINATION WITH OTHER CREDITS.—  
24          Property which would, but for this paragraph, be eli-  
25          gible for credit under more than one provision of

1 this section shall be eligible only under one such pro-  
2 vision, the provision specified by the taxpayer.

3 “(7) WHEN EXPENDITURE MADE; AMOUNT OF  
4 EXPENDITURE.—

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

9 “(B) EXPENDITURES PART OF BUILDING  
10 CONSTRUCTION.—In the case of an expenditure  
11 in connection with the construction of a struc-  
12 ture, such expenditure shall be treated as made  
13 when the original use of the constructed struc-  
14 ture by the taxpayer begins.

15 “(8) PROPERTY FINANCED BY SUBSIDIZED EN-  
16 ERGY FINANCING.—

17 “(A) REDUCTION OF EXPENDITURES.—

18 “(i) IN GENERAL.—Except as pro-  
19 vided in subparagraph (C), for purposes of  
20 determining the amount of residential en-  
21 ergy property expenditures made by any  
22 individual with respect to any dwelling  
23 unit, there shall not be taken into account  
24 expenditures which are made from sub-  
25 sidized energy financing.

1           “(ii) SUBSIDIZED ENERGY FINANC-  
2           ING.—For purposes of clause (i), the term  
3           ‘subsidized energy financing’ has the same  
4           meaning given such term in section  
5           48(a)(4)(C).

6           “(B) DOLLAR LIMITS REDUCED.—The dol-  
7           lar amounts in the table contained in subsection  
8           (b)(1) with respect to each property purchased  
9           for such dwelling unit for any taxable year of  
10          such taxpayer shall be reduced proportionately  
11          by an amount equal to the sum of—

12                  “(i) the amount of the expenditures  
13                  made by the taxpayer during such taxable  
14                  year with respect to such dwelling unit and  
15                  not taken into account by reason of sub-  
16                  paragraph (A), and

17                  “(ii) the amount of any Federal,  
18                  State, or local grant received by the tax-  
19                  payer during such taxable year which is  
20                  used to make residential energy property  
21                  expenditures with respect to the dwelling  
22                  unit and is not included in the gross in-  
23                  come of such taxpayer.

24           “(C) EXCEPTION FOR STATE PROGRAMS.—  
25          Subparagraphs (A) and (B) shall not apply to

1 expenditures made with respect to property for  
2 which the taxpayer has received a loan, State  
3 tax credit, or grant under any State energy pro-  
4 gram.

5 “(e) BASIS ADJUSTMENTS.—For purposes of this  
6 subtitle, if a credit is allowed under this section for any  
7 expenditure with respect to any property, the increase in  
8 the basis of such property which would (but for this sub-  
9 section) result from such expenditure shall be reduced by  
10 the amount of the credit so allowed.

11 “(f) REGULATIONS.—The Secretary shall promulgate  
12 such regulations as necessary to take into account new  
13 technologies regarding energy efficiency and renewable en-  
14 ergy for purposes of determining energy efficiency and  
15 savings under this section.

16 “(g) TERMINATION.—

17 “(1) IN GENERAL.—Except as provided in para-  
18 graph (2), this section shall not apply with respect  
19 to taxable years beginning after December 31, 2007.

20 “(2) TIER 1 ENERGY-EFFICIENT PROPERTY.—  
21 This section shall not apply with respect to expendi-  
22 tures for tier 1 energy-efficient property in taxable  
23 years beginning after December 31, 2005.”.

24 (b) CONFORMING AMENDMENTS.—

1           (1) Subsection (a) of section 1016 of the Inter-  
2           nal Revenue Code of 1986 as amended by section  
3           3(b)(3), is amended by striking “and” at the end of  
4           paragraph (27), by striking the period at the end of  
5           paragraph (28) and inserting “, and”, and by add-  
6           ing at the end the following new paragraph:

7           “(29) to the extent provided in section 25B(e),  
8           in the case of amounts with respect to which a credit  
9           has been allowed under section 25B.”.

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

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

14           (c) EFFECTIVE DATES.—

15           (1) IN GENERAL.—Except as provided in para-  
16           graph (2), the amendments made by this section  
17           shall apply to expenditures made after December 31,  
18           2000.

19           (2) ENERGY EFFICIENT BUILDING PROPERTY  
20           USED IN A PRINCIPAL RESIDENCE.—In the case of  
21           energy efficient building property, as defined in sec-  
22           tion 25B(c) of the Internal Revenue Code of 1986,  
23           as added by subsection (a), the amendments made

1 by this section shall apply to expenditures made  
2 after September 30, 2001.

○