

107TH CONGRESS
1ST SESSION

S. 596

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2001

Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. BAUCUS, Mr. BREAUX, Ms. CANTWELL, Mr. DORGAN, Mr. LEAHY, Mr. REID, Mr. SCHUMER, Mr. KENNEDY, Mr. ROCKEFELLER, Mrs. MURRAY, and Mr. TORRICELLI) 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 tax incentives to encourage the production and use of efficient energy sources, 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; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Energy Security and Tax Incentive Policy Act of 2001”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS

Sec. 101. Credit for energy-efficient property used in business.
 Sec. 102. Energy Efficient Commercial Building Property Deduction.
 Sec. 103. Credit for energy-efficient appliances.

TITLE II—RESIDENTIAL ENERGY SYSTEMS

Sec. 201. Business credit for construction of new energy-efficient home.
 Sec. 202. Credit for energy efficiency improvements to existing homes.
 Sec. 203. Credit for residential solar, wind, and fuel cell energy property.

TITLE III—ELECTRICITY FACILITIES AND PRODUCTION

Sec. 301. Incentive for Distributed Generation.
 Sec. 302. Modifications to credit for electricity produced from renewable and
 waste resources.
 Sec. 303. Treatment of facilities using bagasse to produce energy as solid waste
 disposal facilities eligible for tax-exempt financing.
 Sec. 304. Depreciation of property used in the transmission of electricity.

TITLE IV—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

Sec. 401. Credit for investment in qualifying advanced clean coal technology.
 Sec. 402. Credit for production from qualifying advanced clean coal technology.
 Sec. 403. Risk pool for qualifying advanced clean coal technology.

TITLE V—HEATING FUELS AND STORAGE

Sec. 501. Full expensing of propane storage facilities.
 Sec. 502. Arbitrage rules not to apply to prepayments for natural gas and other
 commodities.
 Sec. 503. Private loan financing test not to apply to prepayments for natural
 gas and other commodities.

TITLE VI—OIL AND GAS PRODUCTION AND PETROLEUM PRODUCTS

Sec. 601. Credit for production of re-refined lubricating oil.
 Sec. 602. Oil and gas from marginal wells.
 Sec. 603. Deduction for delay rental payments.
 Sec. 604. Election to expense geological and geophysical expenditures.

- Sec. 605. Gas pipelines treated as 7-year property.
 Sec. 606. Crude oil and natural gas development credit.
 Sec. 607. Credit for capture of coalmine methane gas.
 Sec. 608. Allocation of alcohol fuels credit to patrons of a cooperative.
 Sec. 609. Extension of credit for producing fuel from a nonconventional source.

1 **TITLE I—ENERGY-EFFICIENT**
 2 **PROPERTY USED IN BUSINESS**

3 **SEC. 101. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROP-**
 4 **ERTY USED IN BUSINESS.**

5 (a) IN GENERAL.—Subpart E of part IV of sub-
 6 chapter A of chapter 1 (relating to rules for computing
 7 investment credit) is amended by inserting after section
 8 48 the following:

9 **“SEC. 48A. ENERGY CREDIT.**

10 “(a) IN GENERAL.—For purposes of section 46, the
 11 energy credit for any taxable year is the energy percentage
 12 of the basis of each energy property placed in service dur-
 13 ing such taxable year.

14 “(b) ENERGY PERCENTAGE.—

15 “(1) IN GENERAL.—The energy percentage is—

16 “(A) except as otherwise provided in this
 17 subparagraph, 10 percent,

18 “(B) in the case of energy property de-
 19 scribed in clauses (i), (iii), and (vi) of sub-
 20 section (c)(1)(A), 20 percent,

21 “(C) in the case of energy property de-
 22 scribed in subsection (c)(1)(A)(v), 15 percent,

1 “(D) in the case of energy property de-
 2 scribed in subsection (c)(1)(A)(ii) relating to a
 3 high risk geothermal well, 20 percent, and

4 “(E) in the case of energy property de-
 5 scribed in subsection (c)(1)(A)(vii), 30 percent.

6 “(2) COORDINATION WITH REHABILITATION.—
 7 The energy percentage shall not apply to that por-
 8 tion of the basis of any property which is attrib-
 9 utable to qualified rehabilitation expenditures.

10 “(c) ENERGY PROPERTY DEFINED.—

11 “(1) IN GENERAL.—For purposes of this sub-
 12 part, the term ‘energy property’ means any
 13 property—

14 “(A) which is—

15 “(i) solar energy property,

16 “(ii) geothermal energy property,

17 “(iii) energy-efficient building prop-
 18 erty other than property described in
 19 clauses (iii)(I) and (v)(I) of subsection
 20 (d)(3)(A),

21 “(iv) combined heat and power system
 22 property,

23 “(v) low core loss distribution trans-
 24 former property,

1 “(vi) qualified anaerobic digester
2 property, or

3 “(vii) qualified wind energy systems
4 equipment property,

5 “(B)(i) the construction, reconstruction, or
6 erection of which is completed by the taxpayer,
7 or

8 “(ii) which is acquired by the taxpayer if
9 the original use of such property commences
10 with the taxpayer.

11 “(C) which can reasonably be expected to
12 remain in operation for at least 5 years,

13 “(D) with respect to which depreciation (or
14 amortization in lieu of depreciation) is allow-
15 able, and

16 “(E) which meets the performance and
17 quality standards (if any) which—

18 “(i) have been prescribed by the Sec-
19 retary by regulations (after consultation
20 with the Secretary of Energy), and

21 “(ii) are in effect at the time of the
22 acquisition of the property.

23 “(2) EXCEPTIONS.—

24 “(A) PUBLIC UTILITY PROPERTY.—Such
25 term shall not include any property which is

1 public utility property (as defined in section
 2 46(f)(5) as in effect on the day before the date
 3 of the enactment of the Revenue Reconciliation
 4 Act of 1990), except for property described in
 5 paragraph (1)(A)(iv).

6 “(B) CERTAIN WIND EQUIPMENT.—Such
 7 term shall not include equipment described in
 8 paragraph (1)(A)(vii) which is taken into ac-
 9 count for purposes of section 45 for the taxable
 10 year.

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

13 “(1) SOLAR ENERGY PROPERTY.—

14 “(A) IN GENERAL.—The term ‘solar en-
 15 ergy property’ means equipment which uses
 16 solar energy to generate electricity, to heat or
 17 cool (or provide hot water for use in) a struc-
 18 ture, or to provide solar process heat.

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

1 “(C) 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) GEOTHERMAL ENERGY PROPERTY.—

8 “(A) IN GENERAL.—The term ‘geothermal
9 energy property’ means equipment used to
10 produce, distribute, or use energy derived from
11 a geothermal deposit (within the meaning of
12 section 613(e)(2)), but only, in the case of elec-
13 tricity generated by geothermal power, up to
14 (but not including) the electrical transmission
15 stage.

16 “(B) HIGH RISK GEOTHERMAL WELL.—
17 The term ‘high risk geothermal well’ means a
18 geothermal deposit (within the meaning of sec-
19 tion 613(e)(2)) which requires high risk drilling
20 techniques. Such deposit may not be located in
21 a State or national park or in an area in which
22 the relevant State park authority or the Na-
23 tional Park Service determines the development
24 of such a deposit will negatively impact on a
25 State or national park.

1 “(3) ENERGY-EFFICIENT BUILDING PROP-
2 ERTY.—

3 “(A) IN GENERAL.—The term ‘energy-effi-
4 cient building property’ means—

5 “(i) a fuel cell which—

6 “(I) generates electricity using
7 an electrochemical process,

8 “(II) has an electricity-only gen-
9 eration efficiency greater than 30 per-
10 cent, and

11 “(III) has a minimum generating
12 capacity of 2 kilowatts,

13 “(ii) an electric heat pump hot water
14 heater which yields an energy factor of 1.7
15 or greater under test procedures prescribed
16 by the Secretary of Energy,

17 “(iii)(I) an electric heat pump which
18 has a heating system performance factor
19 (HSPF) of at least 8.5 but less than 9 and
20 a cooling seasonal energy efficiency ratio
21 (SEER) of at least 13.5 but less than 15,

22 “(II) an electric heat pump which has
23 a heating system performance factor
24 (HSPF) of 9 or greater and a cooling sea-

1 sonal energy efficiency ratio (SEER) of 15
2 or greater,

3 “ (iv) a natural gas heat pump which
4 has a coefficient of performance of not less
5 than 1.25 for heating and not less than
6 0.70 for cooling,

7 “ (v)(I) a central air conditioner which
8 has a cooling seasonal energy efficiency
9 ratio (SEER) of at least 13.5 but less than
10 15,

11 “ (II) a central air conditioner which
12 has a cooling seasonal energy efficiency
13 ratio (SEER) of 15 or greater,

14 “ (vi) an advanced natural gas water
15 heater which—

16 “ (I) increases steady state effi-
17 ciency and reduces standby and vent
18 losses, and

19 “ (II) has an energy factor of at
20 least 0.65,

21 “ (vii) an advanced natural gas fur-
22 nace which achieves a 90 percent AFUE
23 and rated for seasonal electricity use of
24 less than 300 kWh per year, and

1 “(viii) natural gas cooling equipment
2 which meets all applicable standards of the
3 American Society of Heating, Refrig-
4 erating, and Air Conditioning Engineers
5 and which—

6 “(I) has a coefficient of perform-
7 ance of not less than .60, or

8 “(II) uses desiccant technology
9 and has an efficiency rating of not
10 less than 50 percent.

11 “(B) LIMITATIONS.—The credit under sub-
12 section (a) for the taxable year may not
13 exceed—

14 “(i) \$500 in the case of property de-
15 scribed in subparagraph (A) other than
16 clauses (i), (iv), and (viii) thereof,

17 “(ii) \$500 for each kilowatt of capac-
18 ity in the case of any fuel cell described in
19 subparagraph (A)(i),

20 “(iii) \$1,000 in the case of any nat-
21 ural gas heat pump described in subpara-
22 graph (A)(iv), and

23 “(iv) \$150 for each ton of capacity in
24 the case of any natural gas cooling equip-
25 ment described in subparagraph (A)(viii).

1 “(4) COMBINED HEAT AND POWER SYSTEM
2 PROPERTY.—

3 “(A) IN GENERAL.—The term ‘combined
4 heat and power system property’ means
5 property—

6 “(i) comprising a system for the same
7 energy source for the simultaneous or se-
8 quential generation of electrical power, me-
9 chanical shaft power, or both, in combina-
10 tion with steam, heat, or other forms of
11 useful energy,

12 “(ii) which has an electrical capacity
13 of more than 50 kilowatts or a mechanical
14 energy capacity of more than 67 horse-
15 power or an equivalent combination of elec-
16 trical and mechanical energy capacities,

17 “(iii) which produces—

18 “(I) at least 20 percent of its
19 total useful energy in the form of
20 thermal energy, and

21 “(II) at least 20 percent of its
22 total useful energy in the form of elec-
23 trical or mechanical power (or a com-
24 bination thereof), and

1 “(iv) the energy efficiency percentage
2 of which exceeds—

3 “(I) 60 percent in the case of a
4 system with an electrical capacity of
5 less than 1 megawatt),

6 “(II) 65 percent in the case of a
7 system with an electrical capacity of
8 not less than 1 megawatt and not in
9 excess of 50 megawatts), and

10 “(III) 70 percent in the case of a
11 system with an electrical capacity in
12 excess of 50 megawatts).

13 “(B) SPECIAL RULES.—

14 “(i) ENERGY EFFICIENCY PERCENT-
15 AGE.—For purposes of subparagraph
16 (A)(iv), the energy efficiency percentage of
17 a system is the fraction—

18 “(I) the numerator of which is
19 the total useful electrical, thermal,
20 and mechanical power produced by
21 the system at normal operating rates,
22 and

23 “(II) the denominator of which is
24 the lower heating value of the primary
25 fuel source for the system.

1 “(ii) DETERMINATIONS MADE ON BTU
2 BASIS.—The energy efficiency percentage
3 and the percentages under subparagraph
4 (A)(iii) shall be determined on a Btu basis.

5 “(iii) INPUT AND OUTPUT PROPERTY
6 NOT INCLUDED.—The term ‘combined heat
7 and power system property’ does not in-
8 clude property used to transport the en-
9 ergy source to the facility or to distribute
10 energy produced by the facility.

11 “(iv) ACCOUNTING RULE FOR PUBLIC
12 UTILITY PROPERTY.—If the combined heat
13 and power system property is public utility
14 property (as defined in section 46(f)(5) as
15 in effect on the day before the date of the
16 enactment of the Revenue Reconciliation
17 Act of 1990), the taxpayer may only claim
18 the credit under subsection (a)(1) if, with
19 respect to such property, the taxpayer uses
20 a normalization method of accounting.

21 “(5) LOW CORE LOSS DISTRIBUTION TRANS-
22 FORMER PROPERTY.—The term ‘low core loss dis-
23 tribution transformer property’ means a distribution
24 transformer which has energy savings from a highly
25 efficient core of at least 20 percent more than the

1 average for power ratings reported by studies re-
2 quired under section 124 of the Energy Policy Act
3 of 1992.

4 “(6) QUALIFIED ANAEROBIC DIGESTER PROP-
5 ERTY.—The term ‘qualified anaerobic digester prop-
6 erty’ means an anaerobic digester for manure or
7 crop waste which achieves at least 65 percent effi-
8 ciency measured in terms of the fraction of energy
9 input converted to electricity and useful thermal en-
10 ergy.

11 “(7) QUALIFIED WIND ENERGY SYSTEMS
12 EQUIPMENT PROPERTY.—The term ‘qualified wind
13 energy systems equipment property’ means wind en-
14 ergy systems equipment with a turbine size of not
15 more than 75 kilowatts rated capacity.

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

18 “(1) SPECIAL RULE FOR PROPERTY FINANCED
19 BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL
20 DEVELOPMENT BONDS.—

21 “(A) REDUCTION OF BASIS.—For purposes
22 of applying the energy percentage to any prop-
23 erty, if such property is financed in whole or in
24 part by—

25 “(i) subsidized energy financing, or

1 “(ii) the proceeds of a private activity
2 bond (within the meaning of section 141)
3 the interest on which is exempt from tax
4 under section 103, the amount taken into
5 account as the basis of such property shall
6 not exceed the amount which (but for this
7 subparagraph) would be so taken into ac-
8 count multiplied by the fraction deter-
9 mined under subparagraph (B).

10 “(B) DETERMINATION OF FRACTION.—For
11 purposes of subparagraph (A), the fraction de-
12 termined under this subparagraph is 1 reduced
13 by a fraction—

14 “(i) the numerator of which is that
15 portion of the basis of the property which
16 is allocable to such financing or proceeds,
17 and

18 “(ii) the denominator of which is the
19 basis of the property.

20 “(C) SUBSIDIZED ENERGY FINANCING.—
21 For purposes of subparagraph (A), the term
22 ‘subsidized energy financing’ means financing
23 provided under a Federal, State, or local pro-
24 gram a principal purpose of which is to provide

1 subsidized financing for projects designed to
2 conserve or produce energy.

3 “(2) CERTAIN PROGRESS EXPENDITURE RULES
4 MADE APPLICABLE.—Rules similar to the rules of
5 subsections (c)(4) and (d) of section 46 (as in effect
6 on the day before the date of the enactment of the
7 Revenue Reconciliation Act of 1990) shall apply for
8 purposes of this section.

9 “(f) APPLICATION OF SECTION.—

10 “(1) IN GENERAL.—Except as provided by
11 paragraph (2), this section shall apply to property
12 placed in service after December 31, 2001, and be-
13 fore January 1, 2009.

14 “(2) EXCEPTIONS.—

15 “(A) SOLAR ENERGY AND GEOTHERMAL
16 ENERGY PROPERTY.—Paragraph (1) shall not
17 apply to solar energy property or geothermal
18 energy property.

19 “(B) CERTAIN ELECTRIC HEAT PUMPS
20 AND CENTRAL AIR CONDITIONERS.—In the case
21 of property which is described in subsection
22 (d)(3)(A)(iii)(I) or (d)(3)(A)(v)(I), this section
23 shall apply to property placed in service after
24 December 31, 2001, and before January 1,
25 2006.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 48 is amended to read as follows:

3 **“SEC. 48. REFORESTATION CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 46, the
5 reforestation credit for any taxable year is 20 percent of
6 the portion of the amortizable basis of any qualified timber
7 property which was acquired during such taxable year and
8 which is taken into account under section 194 (after the
9 application of section 194(b)(1)).

10 “(b) DEFINITIONS.—For purposes of this subpart,
11 the terms ‘amortizable basis’ and ‘qualified timber prop-
12 erty’ have the respective meanings given to such terms by
13 section 194.”.

14 (2) Section 39(d) is amended by adding at the
15 end the following:

16 “(10) NO CARRYBACK OF ENERGY CREDIT BE-
17 FORE EFFECTIVE DATE.—No portion of the unused
18 business credit for any taxable year which is attrib-
19 utable to the energy credit determined under section
20 48A may be carried back to a taxable year ending
21 before January 1, 2002.”.

22 (3) Section 280C is amended by adding at the
23 end the following:

24 “(d) CREDIT FOR ENERGY PROPERTY EXPENSES.—

1 “(1) IN GENERAL.—No deduction shall be al-
2 lowed for that portion of the expenses for energy
3 property (as defined in section 48A(c)) otherwise al-
4 lowable as a deduction for the taxable year which is
5 equal to the amount of the credit determined for
6 such taxable year under section 48A(a).

7 “(2) SIMILAR RULE WHERE TAXPAYER CAP-
8 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

9 “(A) the amount of the credit allowable for
10 the taxable year under section 48A (determined
11 without regard to section 38(c)), exceeds

12 “(B) the amount allowable as a deduction
13 for the taxable year for expenses for energy
14 property (determined without regard to para-
15 graph (1)), the amount chargeable to capital
16 account for the taxable year for such expenses
17 shall be reduced by the amount of such excess.

18 “(3) CONTROLLED GROUPS.—Paragraph (3) of
19 subsection (b) shall apply for purposes of this sub-
20 section.”.

21 (4) Section 29(b)(3)(A)(i)(III) is amended by
22 striking ‘section 48(a)(4)(C)’ and inserting ‘section
23 48A(e)(1)(C)’.

24 (5) Section 50(a)(2)(E) is amended by striking
25 ‘section 48(a)(5)’ and inserting ‘section 48A(e)(2)’.

1 (6) Section 168(e)(3)(B) is amended—

2 (A) by striking clause (vi)(I) and inserting
3 the following:

4 “(I) is described in paragraph (1) or
5 (2) of section 48A(d) (or would be so de-
6 scribed if ‘solar and wind’ were substituted
7 for ‘solar’ in paragraph (1)(B)),”, and

8 (B) in the last sentence by striking “sec-
9 tion 48(a)(3)” and inserting “section
10 48A(c)(2)(A)”.

11 (c) CLERICAL AMENDMENT.—The table of sections
12 for subpart E of part IV of subchapter A of chapter 1
13 is amended by striking the item relating to section 48 and
14 inserting the following:

“Sec. 48. Reforestation credit.

“Sec. 48A. Energy credit.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to property placed in service after
17 December 31, 2001, under rules similar to the rules of
18 section 48(m) of the Internal Revenue Code of 1986 (as
19 in effect on the day before the date of the enactment of
20 the Revenue Reconciliation Act of 1990).

21 **SEC. 102. ENERGY-EFFICIENT COMMERCIAL BUILDING**
22 **PROPERTY DEDUCTION.**

23 (a) IN GENERAL.—Part VI of subchapter B of chap-
24 ter 1 (relating to itemized deductions for individuals and

1 corporations) is amended by adding at the end the fol-
 2 lowing:

3 **“SEC. 199. ENERGY-EFFICIENT COMMERCIAL BUILDING**
 4 **PROPERTY.**

5 “(a) IN GENERAL.—There shall be allowed as a de-
 6 duction for the taxable year an amount equal to the en-
 7 ergy-efficient commercial building property expenditures
 8 made by a taxpayer for the taxable year.

9 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The
 10 amount of energy-efficient commercial building property
 11 expenditures taken into account under subsection (a) shall
 12 not exceed an amount equal to the product of—

13 “(1) \$2.25, and

14 “(2) the square footage of the building with re-
 15 spect to which the expenditures are made.

16 “(c) YEAR DEDUCTION ALLOWED.—The deduction
 17 under subsection (a) shall be allowed in the taxable year
 18 in which the construction of the building is completed.

19 “(d) ENERGY-EFFICIENT COMMERCIAL BUILDING
 20 PROPERTY EXPENDITURES.—For purposes of this
 21 section—

22 “(1) IN GENERAL.—The term ‘energy-efficient
 23 commercial building property expenditures’ means
 24 an amount paid or incurred for energy-efficient com-
 25 mercial building property installed on or in connec-

1 tion with new construction or reconstruction of
 2 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 or erection of which
 8 is completed by the taxpayer.

9 Such property includes all residential rental prop-
 10 erty, including low-rise multifamily structures and
 11 single family housing property which is not within
 12 the scope of Standard 90.1–1999 (described in para-
 13 graph (3)).

14 “(2) LABOR COSTS INCLUDED.—Such term in-
 15 cludes expenditures for labor costs properly allocable
 16 to the onsite preparation, assembly, or original in-
 17 stallation of the property.

18 “(3) ENERGY EXPENDITURES EXCLUDED.—
 19 Such term does not include any expenditures taken
 20 into account in determining any credit allowed under
 21 section 48A.

22 “(e) ENERGY-EFFICIENT COMMERCIAL BUILDING
 23 PROPERTY.—For purposes of subsection (d)—

24 “(1) IN GENERAL.—The term ‘energy-efficient
 25 commercial building property’ means any property

1 which reduces total annual energy and power costs
2 with respect to the lighting, heating, cooling, ventila-
3 tion, and hot water supply systems of the building
4 by 50 percent or more in comparison to a reference
5 building which meets the requirements of Standard
6 90.1–1999 of the American Society of Heating, Re-
7 frigerating, and Air Conditioning Engineers and the
8 Illuminating Engineering Society of North America
9 using methods of calculation under subparagraph
10 (B) and certified by qualified professionals as pro-
11 vided under paragraph (6).

12 “(2) METHODS OF CALCULATION.—The Sec-
13 retary, in consultation with the Secretary of Energy,
14 shall promulgate regulations which describe in detail
15 methods for calculating and verifying energy and
16 power consumption and cost, taking into consider-
17 ation the provisions of the 1998 California Nonresi-
18 dential ACM Manual. These procedures shall meet
19 the following requirements:

20 “(A) In calculating tradeoffs and energy
21 performance, the regulations shall prescribe the
22 costs per unit of energy and power, such as kil-
23 owatt hour, kilowatt, gallon of fuel oil, and
24 cubic foot or Btu of natural gas, which may be
25 dependent on time of usage.

1 “(B) The calculational methodology shall
2 require that compliance be demonstrated for a
3 whole building. If some systems of the building,
4 such as lighting, are designed later than other
5 systems of the building, the method shall pro-
6 vide that either—

7 “(i) the expenses taken into account
8 under paragraph (1) shall not occur until
9 the date designs for all energy-using sys-
10 tems of the building are completed, or

11 “(ii) the expenses taken into account
12 under paragraph (1) shall be a fraction of
13 such expenses based on the performance of
14 less than all energy-using systems in ac-
15 cordance with subparagraph (C), and the
16 energy performance of all systems and
17 components not yet designed shall be as-
18 sumed to comply minimally with the re-
19 quirements of such Standard 90.1–1999.

20 “(C) The expenditures in connection with
21 the design of subsystems in the building, such
22 as the envelope, the heating, ventilation, air
23 conditioning and water heating system, and the
24 lighting system shall be allocated to the appro-
25 priate building subsystem based on system-spe-

1 cific energy cost savings targets in regulations
2 promulgated by the Secretary of Energy which
3 are equivalent, using the calculation method-
4 ology, to the whole building requirement of 50
5 percent savings.

6 “(D) The calculational methods under this
7 paragraph need not comply fully with section
8 11 of such Standard 90.1–1999.

9 “(E) The calculational methods shall be
10 fuel neutral, such that the same energy effi-
11 ciency features shall qualify a building for the
12 deduction under this section regardless of
13 whether the heating source is a gas or oil fur-
14 nace or an electric heat pump.

15 “(F) The calculational methods shall pro-
16 vide appropriate calculated energy savings for
17 design methods and technologies not otherwise
18 credited in either such Standard 90.1–1999 or
19 in the 1998 California Nonresidential ACM
20 Manual, including the following:

21 “(i) Natural ventilation.

22 “(ii) Evaporative cooling.

23 “(iii) Automatic lighting controls such
24 as occupancy sensors, photocells, and time-
25 clocks.

1 “(iv) Daylighting.

2 “(v) Designs utilizing semi-condi-
3 tioned spaces which maintain adequate
4 comfort conditions without air conditioning
5 or without heating.

6 “(vi) Improved fan system efficiency,
7 including reductions in static pressure.

8 “(vii) Advanced unloading mecha-
9 nisms for mechanical cooling, such as mul-
10 tiple or variable speed compressors.

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

17 “(3) COMPUTER SOFTWARE.—

18 “(A) IN GENERAL.—Any calculation under
19 this subsection shall be prepared by qualified
20 computer software.

21 “(B) QUALIFIED COMPUTER SOFTWARE.—
22 For purposes of this paragraph, the term
23 ‘qualified computer software’ means software—

24 “(i) for which the software designer
25 has certified that the software meets all

1 procedures and detailed methods for calcu-
2 lating energy and power consumption and
3 costs as required by the Secretary,

4 “(ii) which provides such forms as re-
5 quired to be filed by the Secretary in con-
6 nection with energy efficiency of property
7 and the deduction allowed under this sec-
8 tion, and

9 “(iii) which provides a notice form
10 which summarizes the energy efficiency
11 features of the building and its projected
12 annual energy costs.

13 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC
14 PROPERTY.—In the case of energy-efficient commer-
15 cial building property installed on or in public prop-
16 erty, the Secretary shall promulgate a regulation to
17 allow the allocation of the deduction to the person
18 primarily responsible for designing the property in
19 lieu of the public entity which is the owner of such
20 property. Such person shall be treated as the tax-
21 payer for purposes of this section.

22 “(5) NOTICE TO OWNER.—The qualified indi-
23 vidual shall provide an explanation to the owner of
24 the building regarding the energy efficiency features
25 of the building and its projected annual energy costs

1 as provided in the notice under paragraph
2 (3)(B)(iii).

3 “(6) CERTIFICATION.—

4 “(A) IN GENERAL.—Except as provided in
5 this paragraph, the Secretary, in consultation
6 with the Secretary of Energy, shall establish re-
7 quirements for certification and compliance pro-
8 cedures similar to the procedures under section
9 45F(d).

10 “(B) QUALIFIED INDIVIDUALS.—Individuals
11 qualified to determine compliance shall be only
12 those individuals who are recognized by an or-
13 ganization certified by the Secretary for such
14 purposes.

15 “(C) PROFICIENCY OF QUALIFIED INDIVID-
16 UALS.—The Secretary shall consult with non-
17 profit organizations and State agencies with ex-
18 pertise in energy efficiency calculations and in-
19 spections to develop proficiency tests and train-
20 ing programs to qualify individuals to determine
21 compliance.

22 “(f) TERMINATION.—This section shall not apply
23 with respect to any energy-efficient commercial building
24 property expenditures in connection with property—

1 “(1) the plans for which are not certified under
2 subsection (e)(6) on or before December 31, 2006,
3 and

4 “(2) the construction of which is not completed
5 on or before December 31, 2008.”.

6 (b) CONFORMING AMENDMENTS.—Section 1016(a) is
7 amended by striking “and” at the end of paragraph (26),
8 by striking the period at the end of paragraph (27) and
9 inserting “, and”, and by inserting the following:

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

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

“Sec. 199. Energy-efficient commercial building property.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2001.

18 **SEC. 103. CREDIT FOR ENERGY-EFFICIENT APPLIANCES.**

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

22 **“SEC. 45E. ENERGY-EFFICIENT APPLIANCE CREDIT.**

23 “(a) GENERAL RULE.—For purposes of section 38,
24 the energy-efficient appliance credit determined under this
25 section for the taxable year is an amount equal to the ap-

1 plicable amount determined under subsection (b) with re-
2 spect to qualified energy-efficient appliances produced by
3 the taxpayer during the calendar year ending with or with-
4 in the taxable year.

5 “(b) APPLICABLE AMOUNT.—For purposes of sub-
6 section (a), the applicable amount determined under this
7 subsection with respect to a taxpayer is the sum of—

8 “(1) in the case of an energy-efficient clothes
9 washer described in subsection (d)(2)(A) or an en-
10 energy-efficient refrigerator described in subsection
11 (d)(3)(B)(i), an amount equal to—

12 “(A) \$50, multiplied by

13 “(B) the number of such washers and re-
14 frigerators produced by the taxpayer during
15 such calendar year, and

16 “(2) in the case of an energy-efficient clothes
17 washer described in subsection (d)(2)(B) or an en-
18 energy-efficient refrigerator described in subsection
19 (d)(3)(B)(ii), an amount equal to—

20 “(A) \$100, multiplied by

21 “(B) the number of such washers and re-
22 frigerators produced by the taxpayer during
23 such calendar year.

24 “(c) LIMITATION ON MAXIMUM CREDIT.—

1 “(1) IN GENERAL.—The maximum amount of
2 credit allowed under subsection (a) with respect to
3 a taxpayer for all taxable years shall be—

4 “(A) \$30,000,000 with respect to the cred-
5 it determined under subsection (b)(1), and

6 “(B) \$30,000,000 with respect to the cred-
7 it determined under subsection (b)(2).

8 “(2) LIMITATION BASED ON GROSS RE-
9 CEIPTS.—The credit allowed under subsection (a)
10 with respect to a taxpayer for the taxable year shall
11 not exceed an amount equal to 2 percent of the aver-
12 age annual gross receipts of the taxpayer for the 3
13 taxable years preceding the taxable year in which
14 the credit is determined.

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

18 “(d) QUALIFIED ENERGY-EFFICIENT APPLIANCE.—
19 For purposes of this section—

20 “(1) IN GENERAL.—The term ‘qualified energy-
21 efficient appliance’ means—

22 “(A) an energy-efficient clothes washer, or

23 “(B) an energy-efficient refrigerator.

24 “(2) ENERGY-EFFICIENT CLOTHES WASHER.—

25 The term ‘energy-efficient clothes washer’ means a

1 residential clothes washer, including a residential
2 style coin operated washer, which is manufactured
3 with—

4 “(A) a 1.26 Modified Energy Factor (re-
5 ferred to in this paragraph as ‘MEF’) (as de-
6 termined by the Secretary of Energy), or

7 “(B) a 1.42 MEF (as determined by the
8 Secretary of Energy) (1.5 MEF for calendar
9 years beginning after 2004).

10 “(3) ENERGY-EFFICIENT REFRIGERATOR.—The
11 term ‘energy-efficient refrigerator’ means an auto-
12 matic defrost refrigerator-freezer which—

13 “(A) has an internal volume of at least
14 16.5 cubic feet, and

15 “(B) consumes—

16 “(i) 10 percent less kWh per year
17 than the energy conservation standards
18 promulgated by the Department of Energy
19 for such refrigerator for 2001, or

20 “(ii) 15 percent less kWh per year
21 than such energy conservation standards.

22 “(e) SPECIAL RULES.—

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

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

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

10 “(g) TERMINATION.—This section shall not apply—

11 “(1) with respect to energy-efficient refrig-
12 erators described in subsection (d)(3)(B)(i) produced
13 in calendar years beginning after 2005, and

14 “(2) with respect to all other qualified energy-
15 efficient appliances produced in calendar years be-
16 ginning after 2007.”.

17 “(b) LIMITATION ON CARRYBACK.—Section 39(d) (re-
18 lating to transition rules), as amended by section
19 101(b)(2), is amended by adding at the end the following:

20 “(11) NO CARRYBACK OF ENERGY-EFFICIENT
21 APPLIANCE CREDIT BEFORE 2002.—No portion of
22 the unused business credit for any taxable year
23 which is attributable to the energy-efficient appli-
24 ance credit determined under section 45E may be

1 carried to a taxable year beginning before January
2 1, 2002.”.

3 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
4 (relating to certain expenses for which credits are allow-
5 able), as amended by section 102(b)(3), is amended by
6 adding at the end the following:

7 “(e) CREDIT FOR ENERGY-EFFICIENT APPLIANCE
8 EXPENSES.—No deduction shall be allowed for that por-
9 tion of the expenses for qualified energy-efficient appli-
10 ances (as defined in section 45E(d)) otherwise allowable
11 as a deduction for the taxable year which is equal to the
12 amount of the credit determined for such taxable year
13 under section 45E(a).”.

14 (d) CONFORMING AMENDMENT.—Section 38(b) (re-
15 lating to general business credit) is amended by striking
16 “plus” at the end of paragraph (12), by striking the period
17 at the end of paragraph (13) and inserting “, plus”, and
18 by adding at the end the following:

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

21 (e) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 is amended by inserting after the item relating to section
24 45D the following:

“Sec. 45E. Energy-efficient appliance credit.”.

1 (f) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2001.

4 **TITLE II—RESIDENTIAL ENERGY**
 5 **SYSTEMS**

6 **SEC. 201. CREDIT FOR CONSTRUCTION OF NEW ENERGY-EF-**
 7 **FICIENT HOME.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
 9 chapter A of chapter 1 (relating to business related cred-
 10 its), as amended by section 103(a), is amended by insert-
 11 ing after section 45E the following:

12 **“SEC. 45F. NEW ENERGY-EFFICIENT HOME CREDIT.**

13 “(a) IN GENERAL.—For purposes of section 38, in
 14 the case of an eligible contractor, the credit determined
 15 under this section for the taxable year is an amount equal
 16 to the aggregate adjusted bases of all energy-efficient
 17 property installed in a qualified new energy-efficient home
 18 during construction of such home.

19 “(b) LIMITATIONS.—

20 “(1) MAXIMUM CREDIT.—

21 “(A) IN GENERAL.—The credit allowed by
 22 this section with respect to a dwelling shall not
 23 exceed—

24 “(i) in the case of a dwelling described
 25 in subsection (c)(3)(D)(i), \$1,500, and

1 “(ii) in the case of a dwelling de-
2 scribed in subsection (c)(3)(D)(ii), \$2,500.

3 “(B) PRIOR CREDIT AMOUNTS ON SAME
4 DWELLING TAKEN INTO ACCOUNT.—If a credit
5 was allowed under subsection (a) with respect
6 to a dwelling in 1 or more prior taxable years,
7 the amount of the credit otherwise allowable for
8 the taxable year with respect to that dwelling
9 shall not exceed the amount under clause (i) or
10 (ii) (as the case may be), reduced by the sum
11 of the credits allowed under subsection (a) with
12 respect to the dwelling for all prior taxable
13 years.

14 “(2) COORDINATION WITH REHABILITATION
15 AND ENERGY CREDITS.—For purposes of this
16 section—

17 “(A) the basis of any property referred to
18 in subsection (a) shall be reduced by that por-
19 tion of the basis of any property which is attrib-
20 utable to qualified rehabilitation expenditures
21 (as defined in section 47(c)(2)) or to the energy
22 percentage of energy property (as determined
23 under section 48A(a)), and

1 “(B) expenditures taken into account
2 under either section 47 or 48A(a) shall not be
3 taken into account under this section.

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

5 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
6 ble contractor’ means the person who constructed
7 the new energy-efficient home, or in the case of a
8 manufactured home which conforms to Federal
9 Manufactured Home Construction and Safety Stand-
10 ards (24 C.F.R. 3280), the manufactured home pro-
11 ducer of such home.

12 “(2) ENERGY-EFFICIENT PROPERTY.—The
13 term ‘energy-efficient property’ means any energy-
14 efficient building envelope component, and any en-
15 ergy-efficient heating or cooling equipment which
16 can, individually or in combination with other com-
17 ponents, meet the requirements of this section.

18 “(3) QUALIFIED NEW ENERGY-EFFICIENT
19 HOME.—The term ‘qualified new energy-efficient
20 home’ means a dwelling—

21 “(A) located in the United States,

22 “(B) the construction of which is substan-
23 tially completed after December 31, 2000,

24 “(C) the original use of which is as a prin-
25 cipal residence (within the meaning of section

1 121) which commences with the person who ac-
2 quires such dwelling from the eligible con-
3 tractor, and

4 “(D) which is certified to have a projected
5 level of annual heating and cooling energy con-
6 sumption, measured in terms of average annual
7 energy cost to the homeowner which is at
8 least—

9 “(i) 30 percent less than the annual
10 level of heating and cooling energy con-
11 sumption of a reference dwelling con-
12 structed in accordance with the standards
13 of chapter 4 of the 2000 International En-
14 ergy Conservation Code, or

15 “(ii) 50 percent less than such annual
16 level of heating and cooling energy con-
17 sumption.

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

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

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

1 “(A) insulation material or system which is
2 specifically and primarily designed to reduce the
3 heat loss or gain of a dwelling when installed in
4 or on such dwelling, and

5 “(B) exterior windows (including skylights)
6 and doors.

7 “(7) MANUFACTURED HOME INCLUDED.—The
8 term ‘dwelling’ includes a manufactured home con-
9 forming to Federal Manufactured Home Construc-
10 tion and Safety Standards (24 C.F.R. 3280).

11 “(d) CERTIFICATION.—

12 “(1) METHOD.—A certification described in
13 subsection (c)(3)(D) shall be determined on the
14 basis of 1 of the following methods:

15 “(A) A component-based method, using the
16 applicable technical energy efficiency specifica-
17 tions or ratings (including product labeling re-
18 quirements) for the energy-efficient building en-
19 velope component or energy-efficient heating or
20 cooling equipment. The Secretary shall, in con-
21 sultation with the Administrator of the Envi-
22 ronmental Protection Agency, develop prescrip-
23 tive component-based packages that are equiva-
24 lent in energy performance to properties that
25 qualify under subparagraph (B).

1 “(B) An energy performance-based method
2 that calculates projected energy usage and cost
3 reductions in the dwelling in relation to a ref-
4 erence dwelling—

5 “(i) heated by the same energy source
6 and heating system type, and

7 “(ii) constructed in accordance with
8 the standards of chapter 4 of the 2000
9 International Energy Conservation Code.

10 Computer software shall be used in support of an
11 energy performance-based method certification under
12 subparagraph (B). Such software shall meet proce-
13 dures and methods for calculating energy and cost
14 savings in regulations promulgated by the Secretary
15 of Energy. Such regulations on the specifications for
16 software and verification protocols shall be based on
17 the 1998 California Residential Alternative Calcula-
18 tion Method Approval Manual.

19 “(2) PROVIDER.—Such certification shall be
20 provided by—

21 “(A) in the case of a method described in
22 paragraph (1)(A), a local building regulatory
23 authority, a utility, a manufactured home pro-
24 duction inspection primary inspection agency

1 (IPLA), or a home energy rating organization,
2 or

3 “(B) in the case of a method described in
4 paragraph (1)(B), an individual recognized by
5 an organization designated by the Secretary for
6 such purposes.

7 “(3) FORM.—

8 “(A) IN GENERAL.—Such certification
9 shall be made in writing in a manner that
10 specifies in readily verifiable fashion the energy-
11 efficient building envelope components and en-
12 ergy-efficient heating or cooling equipment in-
13 stalled and their respective rated energy effi-
14 ciency performance, and in the case of a meth-
15 od described in paragraph (1)(B), accompanied
16 by written analysis documenting the proper ap-
17 plication of a permissible energy performance
18 calculation method to the specific circumstances
19 of such dwelling.

20 “(B) FORM PROVIDED TO BUYER.—A form
21 documenting the energy-efficient building enve-
22 lope components and energy-efficient heating or
23 cooling equipment installed and their rated en-
24 ergy efficiency performance shall be provided to
25 the buyer of the dwelling. The form shall in-

1 include labeled R-value for insulation products,
2 NFRC-labeled U-factor and Solar Heat Gain
3 Coefficient for windows, skylights, and doors,
4 labeled AFUE ratings for furnaces and boilers,
5 labeled HSPF ratings for electric heat pumps,
6 and labeled SEER ratings for air conditioners.

7 “(C) RATINGS LABEL AFFIXED IN DWELL-
8 ING.—A permanent label documenting the rat-
9 ings in subparagraph (B) shall be affixed to the
10 front of the electrical distribution panel of the
11 dwelling, or shall be otherwise permanently dis-
12 played in a readily inspectable location in the
13 dwelling.

14 “(4) REGULATIONS.—

15 “(A) IN GENERAL.—In prescribing regula-
16 tions under this subsection for energy perform-
17 ance-based certification methods, the Secretary,
18 after examining the requirements for energy
19 consultants and home energy ratings providers
20 specified by the Mortgage Industry National
21 Accreditation Procedures for Home Energy
22 Rating Systems, shall prescribe procedures for
23 calculating annual energy usage and cost reduc-
24 tions for heating and cooling and for the report-
25 ing of the results. Such regulations shall—

1 “(i) provide that any calculation pro-
2 cedures be fuel neutral such that the same
3 energy efficiency measures allow a home to
4 qualify for the credit under this section re-
5 gardless of whether the dwelling uses a gas
6 or oil furnace or boiler or an electric heat
7 pump, and

8 “(ii) require that any computer soft-
9 ware allow for the printing of the Federal
10 tax forms necessary for the credit under
11 this section and for the printing of forms
12 for disclosure to the homebuyer.

13 “(B) PROVIDERS.—For purposes of para-
14 graph (2)(B), the Secretary shall establish re-
15 quirements for the designation of individuals
16 based on the requirements for energy consult-
17 ants and home energy raters specified by the
18 Mortgage Industry National Accreditation Pro-
19 cedures for Home Energy Rating Systems.

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

1 “(f) TERMINATION.—Subsection (a) shall apply to
2 dwellings purchased during the period beginning on Janu-
3 ary 1, 2001, and ending on December 31, 2005.”.

4 (b) CREDIT MADE PART OF GENERAL BUSINESS
5 CREDIT.—Subsection (b) of section 38 (relating to current
6 year business credit), as amended by section 103(d), is
7 amended by striking “plus” at the end of paragraph (13),
8 by striking the period at the end of paragraph (14) and
9 inserting “, plus”, and by adding at the end the following:

10 “(15) the new energy-efficient home credit de-
11 termined under section 45F.”.

12 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
13 (relating to certain expenses for which credits are allow-
14 able), as amended by section 103(e), is amended by adding
15 at the end the following:

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

22 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
23 IMUM TAX.—

24 (1) IN GENERAL.—Subsection (c) of section 38
25 (relating to limitation based on amount of tax) is

1 amended by redesignating paragraph (3) as para-
2 graph (4) and by inserting after paragraph (2) the
3 following new paragraph:

4 “(3) SPECIAL RULES FOR NEW ENERGY EFFI-
5 CIENT HOME CREDIT.—

6 “(A) IN GENERAL.—In the case of the new
7 energy efficient home credit—

8 “(i) this section and section 39 shall
9 be applied separately with respect to the
10 credit, and

11 “(ii) in applying paragraph (1) to the
12 credit—

13 “(I) subparagraphs (A) and (B)
14 thereof shall not apply, and

15 “(II) the limitation under para-
16 graph (1) (as modified by subclause
17 (I)) shall be reduced by the credit al-
18 lowed under subsection (a) for the
19 taxable year (other than the new en-
20 ergy efficient home credit).

21 “(B) NEW ENERGY EFFICIENT HOME
22 CREDIT.—For purposes of this subsection, the
23 term ‘new energy efficient home credit’ means
24 the credit allowable under subsection (a) by rea-
25 son of section 45F.”.

1 (2) CONFORMING AMENDMENT.—Subclause (II)
2 of section 38(c)(2)(A)(ii) is amended by inserting
3 “or the new energy efficient home credit” after “em-
4 ployment credit”.

5 (e) LIMITATION ON CARRYBACK.—Subsection (d) of
6 section 39, as amended by section 103(b), is amended by
7 adding at the end the following:

8 “(12) NO CARRYBACK OF NEW ENERGY-EFFI-
9 CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—
10 No portion of the unused business credit for any
11 taxable year which is attributable to the credit deter-
12 mined under section 45F may be carried back to any
13 taxable year ending before January 1, 2001.”.

14 (f) DEDUCTION FOR CERTAIN UNUSED BUSINESS
15 CREDITS.—Subsection (c) of section 196 is amended by
16 striking “and” at the end of paragraph (7), by striking
17 the period at the end of paragraph (8) and inserting “,
18 and”, and by adding after paragraph (8) the following:

19 “(9) the new energy-efficient home credit deter-
20 mined under section 45F.”.

21 (g) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1,
23 as amended by section 103(d), is amended by inserting
24 after the item relating to section 45E the following:

 “Sec. 45F. New energy-efficient home credit.”.

1 (h) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years ending after De-
 3 cember 31, 2000.

4 **SEC. 202. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
 5 **MENTS TO EXISTING HOMES.**

6 (a) IN GENERAL.—Subpart A of part IV of sub-
 7 chapter A of chapter 1 (relating to nonrefundable personal
 8 credits) is amended by inserting after section 25A the fol-
 9 lowing new section:

10 **“SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
 11 **ING HOMES.**

12 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 13 dividual, there shall be allowed as a credit against the tax
 14 imposed by this chapter for the taxable year an amount
 15 equal to 20 percent of the amount paid or incurred by
 16 the taxpayer for qualified energy efficiency improvements
 17 installed during such taxable year.

18 “(b) LIMITATIONS.—

19 “(1) MAXIMUM CREDIT.—The credit allowed by
 20 this section with respect to a dwelling shall not ex-
 21 ceed \$2,000.

22 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
 23 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
 24 credit was allowed to the taxpayer under subsection
 25 (a) with respect to a dwelling in 1 or more prior tax-

1 able years, the amount of the credit otherwise allow-
2 able for the taxable year with respect to that dwell-
3 ing shall not exceed the amount of \$2,000 reduced
4 by the sum of the credits allowed under subsection
5 (a) to the taxpayer with respect to the dwelling for
6 all prior taxable years.

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

15 “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-
16 MENTS.—For purposes of this section, the term ‘qualified
17 energy efficiency improvements’ means any energy effi-
18 cient building envelope component which is certified to
19 meet or exceed the prescriptive criteria for such compo-
20 nent in the 2000 International Energy Conservation Code,
21 or any combination of energy efficiency measures which
22 achieves at least a 30 percent reduction in heating and
23 cooling energy usage for the dwelling (as measured in
24 terms of energy cost to the taxpayer), if—

1 “(1) such component or combinations of meas-
2 ures is installed in or on a dwelling—

3 “(A) located in the United States, and

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

7 “(2) the original use of such component or com-
8 bination of measures commences with the taxpayer,
9 and

10 “(3) such component or combination of meas-
11 ures reasonably can be expected to remain in use for
12 at least 5 years.

13 “(e) CERTIFICATION.—The certification described in
14 subsection (d) shall be—

15 “(1) in the case of any component described in
16 subsection (d), determined on the basis of applicable
17 energy efficiency ratings (including product labeling
18 requirements) for affected building envelope compo-
19 nents,

20 “(2) in the case of combinations of measures
21 described in subsection (d), determined by the per-
22 formance-based methods described in section
23 45F(d),

24 “(3) provided by a third party, such as a local
25 building regulatory authority, a utility, a manufac-

1 tured home production inspection primary inspection
2 agency (IPLA), or a home energy rating organiza-
3 tion, consistent with the requirements of section
4 45F(d)(2), and

5 “(4) made in writing on forms which specify in
6 readily inspectable fashion the energy-efficient com-
7 ponents and other measures and their respective ef-
8 ficiency ratings, and which shall include a perma-
9 nent label affixed to the electrical distribution panel
10 as described in section 45F(d)(3)(C).

11 “(f) DEFINITIONS AND SPECIAL RULES.—

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

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

1 “(B) There shall be allowable with respect
2 to such expenditures to each of such individ-
3 uals, a credit under subsection (a) for the tax-
4 able year in which such calendar year ends in
5 an amount which bears the same ratio to the
6 amount determined under subparagraph (A) as
7 the amount of such expenditures made by such
8 individual during such calendar year bears to
9 the aggregate of such expenditures made by all
10 of such individuals during such calendar year.

11 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
12 HOUSING CORPORATION.—In the case of an indi-
13 vidual who is a tenant-stockholder (as defined in sec-
14 tion 216) in a cooperative housing corporation (as
15 defined in such section), such individual shall be
16 treated as having paid his tenant-stockholder’s pro-
17 portionate share (as defined in section 216(b)(3)) of
18 the cost of qualified energy efficiency improvements
19 made by such corporation.

20 “(3) CONDOMINIUMS.—

21 “(A) IN GENERAL.—In the case of an indi-
22 vidual who is a member of a condominium man-
23 agement association with respect to a condo-
24 minium which he owns, such individual shall be
25 treated as having paid his proportionate share

1 of the cost of qualified energy efficiency im-
2 provements made by such association.

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

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

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

17 “(B) exterior windows (including skylights)
18 and doors.

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

24 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
25 title, if a credit is allowed under this section for any ex-

1 penditure with respect to any property, the increase in the
2 basis of such property which would (but for this sub-
3 section) result from such expenditure shall be reduced by
4 the amount of the credit so allowed.

5 “(h) TERMINATION.—Subsection (a) shall apply to
6 qualified energy efficiency improvements installed during
7 the period beginning on the date of the enactment of this
8 section and ending on December 31, 2005.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Subsection (c) of section 23 is amended by
11 inserting “, section 25B, and section 1400C” after
12 “other than this section”.

13 (2) Subparagraph (C) of section 25(e)(1) is
14 amended by striking “section 23” and inserting
15 “sections 23, 25B, and 1400C”.

16 (3) Subsection (d) of section 1400C is amended
17 by inserting “and section 25B” after “other than
18 this section”.

19 (4) Subsection (a) of section 1016, as amended
20 by section 102(b), is amended by striking “and” at
21 the end of paragraph (27), by striking the period at
22 the end of paragraph (28) and inserting “; and”,
23 and by adding at the end the following:

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

4 (5) The table of sections for subpart A of part
 5 IV of subchapter A of chapter 1 is amended by in-
 6 serting after the item relating to section 25A the fol-
 7 lowing new item:

 “Sec. 25B. Energy efficiency improvements to existing homes.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years ending on or after
 10 the date of the enactment of this Act.

11 **SEC. 203. CREDIT FOR RESIDENTIAL SOLAR, WIND, AND**
 12 **FUEL CELL ENERGY PROPERTY.**

13 (a) IN GENERAL.—Subpart A of part IV of sub-
 14 chapter A of chapter 1 (relating to nonrefundable personal
 15 credits), as amended by section 201(a), is amended by in-
 16 serting after section 25B the following:

17 **“SEC. 25C. RESIDENTIAL SOLAR, WIND, AND FUEL CELL EN-**
 18 **ERGY PROPERTY.**

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

23 “(1) 15 percent of the qualified photovoltaic
 24 property expenditures,

1 “(2) 15 percent of the qualified solar water
2 heating property expenditures,

3 “(3) 30 percent of the qualified wind energy
4 property expenditures, and

5 “(4) 20 percent for the qualified fuel cell prop-
6 erty expenditures,

7 made by the taxpayer during the taxable year.

8 “(b) LIMITATIONS.—

9 “(1) MAXIMUM CREDIT.—The credit allowed
10 under subsection (a)(2) shall not exceed \$2,000 for
11 each system of solar energy property.

12 “(2) TYPE OF PROPERTY.—No expenditure may
13 be taken into account under this section unless such
14 expenditure is made by the taxpayer for property in-
15 stalled on or in connection with a dwelling unit
16 which is located in the United States and which is
17 used as a residence.

18 “(3) SAFETY CERTIFICATIONS.—No credit shall
19 be allowed under this section for an item of property
20 unless—

21 “(A) in the case of solar water heating
22 property, such property is certified for perform-
23 ance and safety by the non-profit Solar Rating
24 Certification Corporation or a comparable enti-

1 ty endorsed by the government of the State in
2 which such property is installed, and

3 “(B) in the case of a photovoltaic, wind en-
4 ergy, or fuel cell property, such property meets
5 appropriate fire and electric code requirements.

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

7 “(1) QUALIFIED SOLAR WATER HEATING PROP-
8 ERTY EXPENDITURE.—The term ‘qualified solar
9 water heating property expenditure’ means an ex-
10 penditure for property which uses solar energy to
11 heat water for use in a dwelling unit with respect to
12 which a majority of the energy is derived from the
13 sun.

14 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
15 PENDITURE.—The term ‘qualified photovoltaic prop-
16 erty expenditure’ means an expenditure for property
17 which uses solar energy to generate electricity for
18 use in a dwelling unit.

19 “(3) SOLAR PANELS.—No expenditure relating
20 to a solar panel or other property installed as a roof
21 (or portion thereof) shall fail to be treated as prop-
22 erty described in paragraph (1) or (2) solely because
23 it constitutes a structural component of the struc-
24 ture on which it is installed.

1 “(4) QUALIFIED WIND ENERGY PROPERTY EX-
2 PENDITURE.—The term ‘qualified wind energy prop-
3 erty expenditure’ means an expenditure for property
4 which uses wind energy to generate electricity for
5 use in a dwelling unit.

6 “(5) QUALIFIED FUEL CELL PROPERTY EX-
7 PENDITURE.—The term ‘qualified fuel cell property
8 expenditure’ means an expenditure for property
9 which uses an electrochemical fuel cell system to
10 generate electricity for use in a dwelling unit.

11 “(6) LABOR COSTS.—Expenditures for labor
12 costs properly allocable to the onsite preparation, as-
13 sembly, or original installation of the property de-
14 scribed in paragraph (1), (2), (4), or (5) and for
15 piping or wiring to interconnect such property to the
16 dwelling unit shall be taken into account for pur-
17 poses of this section.

18 “(7) ENERGY STORAGE MEDIUM.—Expendi-
19 tures which are properly allocable to a swimming
20 pool, hot tub, or any other energy storage medium
21 which has a function other than the function of such
22 storage shall not be taken into account for purposes
23 of this section.

24 “(d) SPECIAL RULES.—For purposes of this
25 section—

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

6 “(A) The amount of the credit allowable
7 under subsection (a) by reason of expenditures
8 (as the case may be) made during such cal-
9 endar year by any of such individuals with re-
10 spect to such dwelling unit shall be determined
11 by treating all of such individuals as 1 taxpayer
12 whose taxable year is such calendar year.

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

23 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
24 HOUSING CORPORATION.—In the case of an indi-
25 vidual who is a tenant-stockholder (as defined in sec-

1 tion 216) in a cooperative housing corporation (as
2 defined in such section), such individual shall be
3 treated as having made his tenant-stockholder's pro-
4 portionate share (as defined in section 216(b)(3)) of
5 any expenditures of such corporation.

6 “(3) CONDOMINIUMS.—

7 “(A) IN GENERAL.—In the case of an indi-
8 vidual who is a member of a condominium man-
9 agement association with respect to a condo-
10 minium which such individual owns, such indi-
11 vidual shall be treated as having made his pro-
12 portionate share of any expenditures of such as-
13 sociation.

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

22 “(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR
23 WIND ENERGY PROPERTY.—

24 “(A) IN GENERAL.—Any expenditure oth-
25 erwise qualifying as an expenditure described in

1 paragraph (1), (2), or (4) of subsection (c) shall
2 not be treated as failing to so qualify merely
3 because such expenditure was made with re-
4 spect to 2 or more dwelling units.

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

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

20 “(6) WHEN EXPENDITURE MADE; AMOUNT OF
21 EXPENDITURE.—

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

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

8 “(C) AMOUNT.—The amount of any ex-
9 penditure shall be the cost thereof.

10 “(7) REDUCTION OF CREDIT FOR GRANTS, TAX-
11 EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANC-
12 ING.—The rules of section 29(b)(3) shall apply for
13 purposes of this section.

14 “(e) BASIS ADJUSTMENTS.—For purposes of this
15 subtitle, if a credit is allowed under this section for any
16 expenditure with respect to any property, the increase in
17 the basis of such property which would (but for this sub-
18 section) result from such expenditure shall be reduced by
19 the amount of the credit so allowed.

20 “(f) TERMINATION.—The credit allowed under this
21 section shall not apply to taxable years beginning after
22 December 31, 2011.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Subsection (a) of section 1016, as amended
25 by section 201(b)(4), is amended by striking “and”

1 at the end of paragraph (28), by striking the period
 2 at the end of paragraph (29) and inserting “; and”,
 3 and by adding at the end the following:

4 “(30) to the extent provided in section 25C(e),
 5 in the case of amounts with respect to which a credit
 6 has been allowed under section 25C.”.

7 (2) The table of sections for subpart A of part
 8 IV of subchapter A of chapter 1, as amended by sec-
 9 tion 201(b)(2), is amended by inserting after the
 10 item relating to section 25B the following:

“Sec. 25C. Residential solar, wind, and fuel cell energy prop-
 erty.”.

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

15 **TITLE III—ELECTRICITY**
 16 **FACILITIES AND PRODUCTION**

17 **SEC. 301. INCENTIVE FOR DISTRIBUTED GENERATION.**

18 (a) DEPRECIATION OF DISTRIBUTED POWER PROP-
 19 erty.—

20 (1) IN GENERAL.—Subparagraph (C) of section
 21 168(e)(3) (relating to 7-year property) is amended
 22 by redesignating clause (ii) as clause (iii) and by in-
 23 serting after clause (i) the following:

1 “(ii) any distributed power property,
2 and”.

3 (2) 10-YEAR CLASS LIFE.—The table contained
4 in section 168(g)(3)(B) is amended by inserting
5 after the item relating to subparagraph (C)(i) the
6 following:

 “(C)(ii) 10”.

7 (b) DISTRIBUTED POWER PROPERTY.—Section
8 168(i) is amended by adding at the end the following:

9 “(15) DISTRIBUTED POWER PROPERTY.—The
10 term ‘distributed power property’ means property—

11 “(A) which is used in the generation of
12 electricity for primary use—

13 “(i) in nonresidential real or residen-
14 tial rental property used in the taxpayer’s
15 trade or business, or

16 “(ii) in the taxpayer’s industrial man-
17 ufacturing process or plant activity, with a
18 rated total capacity in excess of 500 kilo-
19 watts,

20 “(B) which also may produce usable ther-
21 mal energy or mechanical power for use in a
22 heating or cooling application, as long as at
23 least 40 percent of the total useful energy pro-
24 duced consists of—

1 “(i) with respect to assets described in
2 subparagraph (A)(i), electrical power
3 (whether sold or used by the taxpayer), or

4 “(ii) with respect to assets described
5 in subparagraph (A)(ii), electrical power
6 (whether sold or used by the taxpayer) and
7 thermal or mechanical energy used in the
8 taxpayer’s industrial manufacturing proc-
9 ess or plant activity,

10 “(C) which is not used to transport pri-
11 mary fuel to the generating facility or to dis-
12 tribute energy within or outside of the facility,
13 and

14 “(D) where it is reasonably expected that
15 not more than 50 percent of the produced elec-
16 tricity will be sold to, or used by, unrelated per-
17 sons.

18 For purposes of subparagraph (B), energy output is
19 determined on the basis of expected annual output
20 levels, measured in British thermal units (Btu),
21 using standard conversion factors established by the
22 Secretary.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to property placed in service after
25 the date of the enactment of this Act.

1 **SEC. 302. MODIFICATIONS TO CREDIT FOR ELECTRICITY**
2 **PRODUCED FROM RENEWABLE AND WASTE**
3 **PRODUCTS.**

4 (a) INCREASE IN CREDIT RATE.—

5 (1) IN GENERAL.—Section 45(a)(1) is amended
6 by striking “1.5 cents” and inserting “1.8 cents”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Section 45(b)(2) is amended by strik-
9 ing “1.5 cent” and inserting “1.8 cent”.

10 (B) Section 45(d)(2)(B) is amended by in-
11 sserting “(calendar year 2001 in the case of the
12 1.8 cent amount in subsection (a))” after
13 “1992”.

14 (b) EXPANSION OF QUALIFIED RESOURCES.—

15 (1) IN GENERAL.—Section 45(c)(1) (relating to
16 qualified energy resources) is amended by striking
17 “and” at the end of subparagraph (B), by striking
18 the period at the end of subparagraph (C) and in-
19 sserting “, and”, and by adding at the end the fol-
20 lowing:

21 “(D) alternative resources.”.

22 (2) DEFINITION OF ALTERNATIVE RE-
23 SOURCES.—Section 45(c) (relating to definitions) is
24 amended—

25 (A) by redesignating paragraph (3) as
26 paragraph (5),

1 (B) by redesignating paragraph (4) as
2 paragraph (3), and

3 (C) by inserting after paragraph (3), as re-
4 designated by subparagraph (B), the following:

5 “(4) ALTERNATIVE RESOURCES.—

6 “(A) IN GENERAL.—The term ‘alternative
7 resources’ means—

8 “(i) solar,

9 “(ii) biomass (other than closed loop
10 biomass),

11 “(iii) municipal solid waste,

12 “(iv) incremental hydropower,

13 “(v) geothermal,

14 “(vi) landfill gas, and

15 “(vii) steel cogeneration.

16 “(B) BIOMASS.—The term ‘biomass’
17 means any solid, nonhazardous, cellulosic waste
18 material or any organic carbohydrate matter,
19 which is segregated from other waste materials,
20 and which is derived from—

21 “(i) any of the following forest-related
22 resources: mill residues, precommercial
23 thinnings, slash, and brush, but not includ-
24 ing old-growth timber,

1 “(ii) waste pallets, crates, dunnage,
2 untreated wood waste from construction or
3 manufacturing activities, and landscape or
4 right-of-way tree trimmings, but not in-
5 cluding unsegregated municipal solid waste
6 or post-consumer wastepaper, or

7 “(iii) any of the following agriculture
8 sources: orchard tree crops, vineyard,
9 grain, legumes, sugar, and other crop by-
10 products or residues, including any pack-
11 aging and other materials which are
12 nontoxic and biodegradable and are associ-
13 ated with the processing, feeding, selling,
14 transporting, and disposal of such agricul-
15 tural materials.

16 “(C) MUNICIPAL SOLID WASTE.—The term
17 ‘municipal solid waste’ has the same meaning
18 given the term ‘solid waste’ under section 2(27)
19 of the Solid Waste Utilization Act (42 U.S.C.
20 6903).

21 “(D) INCREMENTAL HYDROPOWER.—The
22 term ‘incremental hydropower’ means additional
23 generating capacity achieved from—

24 “(i) increased efficiency, or

25 “(ii) additions of new capacity,

1 at a licensed non-Federal hydroelectric project
2 originally placed in service before the date of
3 the enactment of this paragraph.

4 “(E) GEOTHERMAL.—The term ‘geo-
5 thermal’ means energy derived from a geo-
6 thermal deposit (within the meaning of section
7 613(e)(2)), but only, in the case of electricity
8 generated by geothermal power, up to (but not
9 including) the electrical transmission stage.

10 “(F) LANDFILL GAS.—The term ‘landfill
11 gas’ means gas generated from the decomposi-
12 tion of any household solid waste, commercial
13 solid waste, and industrial solid waste disposed
14 of in a municipal solid waste landfill unit (as
15 such terms are defined in regulations promul-
16 gated under subtitle D of the Solid Waste Dis-
17 posal Act (42 U.S.C. 6941 et seq.).

18 “(G) STEEL COGENERATION.—The term
19 ‘steel cogeneration’ means the production of
20 electricity and steam (or other form of thermal
21 energy) from any or all waste sources defined
22 in paragraphs (2) and (3) and subparagraphs
23 (B) and (C) of this paragraph within an oper-
24 ating facility which produces or integrates the
25 production of coke, direct reduced iron ore,

1 iron, or steel provided that the cogeneration
 2 meets any regulatory energy-efficiency stand-
 3 ards established by the Secretary, and only to
 4 the extent that such energy is produced from—

5 “(i) gases or heat generated from the
 6 production of metallurgical coke,

7 “(ii) gases or heat generated from the
 8 production of direct reduced iron ore or
 9 iron, from blast furnace or direct
 10 ironmaking processes, or

11 “(iii) gases or heat generated from
 12 the manufacture of steel.”.

13 (3) QUALIFIED FACILITY.—Section 45(c)(5)
 14 (defining qualified facility), as redesignated by para-
 15 graph 2(A), is amended by adding at the end the
 16 following:

17 “(D) ALTERNATIVE RESOURCES FACIL-
 18 ITY.—

19 “(i) IN GENERAL.—Except as pro-
 20 vided in clauses (ii), (iii), and (iv), in the
 21 case of a facility using alternative re-
 22 sources to produce electricity, the term
 23 ‘qualified facility’ means any facility of the
 24 taxpayer which is originally placed in serv-

1 ice after the date of the enactment of this
2 subparagraph.

3 “(ii) BIOMASS FACILITY.—In the case
4 of a facility using biomass described in
5 paragraph (4)(A)(ii) to produce electricity,
6 the term ‘qualified facility’ means any fa-
7 cility of the taxpayer.

8 “(iii) GEOTHERMAL FACILITY.—In
9 the case of a facility using geothermal to
10 produce electricity, the term ‘qualified fa-
11 cility’ means any facility of the taxpayer
12 which is originally placed in service after
13 December 31, 1992.

14 “(iv) STEEL COGENERATION FACILI-
15 TIES.—In the case of a facility using steel
16 cogeneration to produce electricity, the
17 term ‘qualified facility’ means any facility
18 permitted to operate under the environ-
19 mental requirements of the Clean Air Act
20 Amendments of 1990 which is owned by
21 the taxpayer and originally placed in serv-
22 ice after the date of the enactment of this
23 subparagraph. Such a facility may be
24 treated as originally placed in service when
25 such facility was last upgraded to increase

1 efficiency or generation capability after
2 such date.

3 “(v) SPECIAL RULES.—In the case of
4 a qualified facility described in this sub-
5 paragraph, the 10-year period referred to
6 in subsection (a) shall be treated as begin-
7 ning no earlier than the date of the enact-
8 ment of this subparagraph.”.

9 (4) GOVERNMENT-OWNED FACILITY.—Section
10 45(d)(6) (relating to credit eligibility in the case of
11 government-owned facilities using poultry waste) is
12 amended—

13 (A) by inserting “or alternative resources”
14 after “poultry waste”, and

15 (B) by inserting “OR ALTERNATIVE RE-
16 SOURCES” after “POULTRY WASTE” in the
17 heading thereof.

18 (5) QUALIFIED FACILITIES WITH CO-PRODUC-
19 TION.—Section 45(b) (relating to limitations and ad-
20 justments) is amended by adding at the end the fol-
21 lowing:

22 “(4) INCREASED CREDIT FOR CO-PRODUCTION
23 FACILITIES.—

24 “(A) IN GENERAL.—In the case of a quali-
25 fied facility described in subsection (c)(3)(D)(i)

1 which has a co-production facility or a qualified
 2 facility described in subparagraph (A), (B), or
 3 (C) of subsection (c)(3) which adds a co-pro-
 4 duction facility after the date of the enactment
 5 of this paragraph, the amount in effect under
 6 subsection (a)(1) for an eligible taxable year of
 7 a taxpayer shall (after adjustment under para-
 8 graph (2) and before adjustment under para-
 9 graphs (1) and (3)) be increased by .25 cents.

10 “(B) CO-PRODUCTION FACILITY.—For
 11 purposes of subparagraph (A), the term ‘co-pro-
 12 duction facility’ means a facility which—

13 “(i) enables a qualified facility to
 14 produce heat, mechanical power, chemicals,
 15 liquid fuels, or minerals from qualified en-
 16 ergy resources in addition to electricity,
 17 and

18 “(ii) produces such energy on a con-
 19 tinuous basis.

20 “(C) ELIGIBLE TAXABLE YEAR.—For pur-
 21 poses of subparagraph (A), the term ‘eligible
 22 taxable year’ means any taxable year in which
 23 the amount of gross receipts attributable to the
 24 co-production facility of a qualified facility are
 25 at least 10 percent of the amount of gross re-

1 ceipts attributable to electricity produced by
2 such facility.”.

3 (6) QUALIFIED FACILITIES LOCATED WITHIN
4 QUALIFIED INDIAN LANDS.—Section 45(b) (relating
5 to limitations and adjustments), as amended by
6 paragraph (5), is amended by adding at the end the
7 following:

8 “(5) INCREASED CREDIT FOR QUALIFIED FA-
9 CILITY LOCATED WITHIN QUALIFIED INDIAN
10 LAND.—In the case of a qualified facility described
11 in subsection (c)(3)(D) which—

12 “(A) is located within—

13 “(i) qualified Indian lands (as defined
14 in section 7871(c)(3)), or

15 “(ii) lands which are held in trust by
16 a Native Corporation (as defined in section
17 3(m) of the Alaska Native Claims Settle-
18 ment Act (43 U.S.C. 1602(m)) for Alaska
19 Natives, and

20 “(B) is operated with the explicit written
21 approval of the Indian tribal government or Na-
22 tive Corporation (as so defined) having jurisdic-
23 tion over such lands,

24 the amount in effect under subsection (a)(1) for a
25 taxable year shall (after adjustment under para-

1 graphs (2) and (4) and before adjustment under
 2 paragraphs (1) and (3)) be increased by .25 cents.”.

3 (7) ELECTRICITY PRODUCED FROM CERTAIN
 4 RESOURCES CO-FIRED IN COAL PLANTS.—Section
 5 45(d) (relating to definitions and special rules) is
 6 amended by adding at the end the following:

7 “(8) SPECIAL RULE FOR ELECTRICITY PRO-
 8 DUCED FROM CERTAIN RESOURCES CO-FIRED IN
 9 COAL PLANTS.—In the case of electricity produced
 10 from biomass (including closed loop biomass), mu-
 11 nicipal solid waste, or animal waste, co-fired in a fa-
 12 cility which produces electricity from coal—

13 “(A) subsection (a)(1) shall be applied by
 14 substituting ‘1 cent’ for ‘1.8 cents’,

15 “(B) such facility shall be considered a
 16 qualified facility for purposes of this section,
 17 and

18 “(C) the 10-year period referred to in sub-
 19 section (a) shall be treated as beginning no ear-
 20 lier than the date of the enactment of this para-
 21 graph.”.

22 (8) CONFORMING AMENDMENTS.—

23 (A) The heading for section 45 is amended
 24 by inserting “**AND WASTE ENERGY**” after
 25 “**RENEWABLE**”.

1 (B) The item relating to section 45 in the
2 table of sections subpart D of part IV of sub-
3 chapter A of chapter 1 is amended by inserting
4 “and waste energy” after “renewable”.

5 (c) ADDITIONAL MODIFICATIONS OF RENEWABLE
6 AND WASTE ENERGY RESOURCE CREDIT.—

7 (1) CREDITS FOR CERTAIN TAX EXEMPT ORGA-
8 NIZATIONS AND GOVERNMENTAL UNITS.—Section
9 45(d) (relating to definitions and special rules), as
10 amended by subsection (b)(7), is amended by adding
11 at the end the following:

12 “(9) CREDITS FOR CERTAIN TAX EXEMPT OR-
13 GANIZATIONS AND GOVERNMENTAL UNITS.—

14 “(A) ALLOWANCE OF CREDIT.—Any credit
15 which would be allowable under subsection (a)
16 with respect to a qualified facility of an entity
17 if such entity were not exempt from tax under
18 this chapter shall be treated as a credit allow-
19 able under subpart C to such entity if such en-
20 tity is—

21 “(i) an organization described in sec-
22 tion 501(c)(12)(C) and exempt from tax
23 under section 501(a),

24 “(ii) an organization described in sec-
25 tion 1381(a)(2)(C), or

1 “(iii) an entity the income of which is
2 excludable from gross income under section
3 115.

4 “(B) USE OF CREDIT.—

5 “(i) TRANSFER OF CREDIT.—An enti-
6 ty described in subparagraph (A) may as-
7 sign, trade, sell, or otherwise transfer any
8 credit allowable to such entity under sub-
9 paragraph (A) to any taxpayer.

10 “(ii) USE OF CREDIT AS AN OFF-
11 SET.—Notwithstanding any other provision
12 of law, in the case of an entity described
13 in clause (i) or (ii) of subparagraph (A),
14 any credit allowable to such entity under
15 subparagraph (A) may be applied by such
16 entity, without penalty, as a prepayment of
17 any loan, debt, or other obligation the enti-
18 ty has incurred under subchapter I of
19 chapter 31 of title 7 of the Rural Elec-
20 trification Act of 1936 (7 U.S.C. 901 et
21 seq.).

22 “(C) CREDIT NOT INCOME.—Neither a
23 transfer under clause (i) or a use under clause
24 (ii) of subparagraph (B) of any credit allowable

1 under subparagraph (A) shall result in income
2 for purposes of section 501(c)(12).

3 “(D) TRANSFER PROCEEDS TREATED AS
4 ARISING FROM ESSENTIAL GOVERNMENT FUNC-
5 TION.—Any proceeds derived by an entity de-
6 scribed in subparagraph (A)(iii) from the trans-
7 fer of any credit under subparagraph (B)(i)
8 shall be treated as arising from an essential
9 government function.

10 “(E) CREDITS NOT REDUCED BY TAX-EX-
11 EMPT BONDS OR CERTAIN OTHER SUBSIDIES.—
12 Subsection (b)(3) shall not apply to reduce any
13 credit allowable under subparagraph (A) with
14 respect to—

15 “(i) proceeds described in subpara-
16 graph (A)(ii) of such subsection, or

17 “(ii) any loan, debt, or other obliga-
18 tion incurred under subchapter I of chap-
19 ter 31 of title 7 of the Rural Electrification
20 Act of 1936 (7 U.S.C. 901 et seq.),

21 used to provide financing for any qualified facil-
22 ity.

23 “(F) TREATMENT OF UNRELATED PER-
24 SONS.—For purposes of this paragraph, sales
25 among and between entities described in sub-

1 paragraph (A) shall be treated as sales between
2 unrelated parties.”.

3 (2) COORDINATION WITH OTHER CREDITS.—
4 Section 45(d), as amended by paragraph (1), is
5 amended by adding at the end the following:

6 “(10) COORDINATION WITH OTHER CREDITS.—
7 This section shall not apply to any qualified facility
8 with respect to which a credit under any other sec-
9 tion is allowed for the taxable year unless the tax-
10 payer elects to waive the application of such credit
11 to such facility.”.

12 (3) EXPANSION TO INCLUDE ANIMAL WASTE.—
13 Section 45 (relating to electricity produced from cer-
14 tain renewable resources), as amended by para-
15 graphs (2) and (4) of subsection (b), is amended—

16 (A) by striking “poultry” each place it ap-
17 pears in subsection (c)(1)(C) and subsection
18 (d)(6) and inserting “animal”,

19 (B) by striking “POULTRY” in the heading
20 of paragraph (6) of subsection (d) and inserting
21 “ANIMAL”,

22 (C) by striking paragraph (3) of subsection
23 (c) and inserting the following:

1 “(3) ANIMAL WASTE.—The term ‘animal waste’
2 means poultry manure and litter and other animal
3 wastes, including—

4 “(A) wood shavings, straw, rice hulls, and
5 other bedding material for the disposition of
6 manure, and

7 “(B) byproducts, packaging, and other ma-
8 terials which are nontoxic and biodegradable
9 and are associated with the processing, feeding,
10 selling, transporting, and disposal of such ani-
11 mal wastes.”, and

12 (D) by striking subparagraph (C) of sub-
13 section (c)(5) and inserting the following:

14 “(C) ANIMAL WASTE FACILITY.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), in the case of a facility
17 using animal waste (other than poultry) to
18 produce electricity, the term ‘qualified fa-
19 cility’ means any facility of the taxpayer
20 which is originally placed in service after
21 the date of the enactment of this clause.

22 “(ii) POULTRY WASTE.—In the case
23 of a facility using animal waste relating to
24 poultry to produce electricity, the term
25 ‘qualified facility’ means any facility of the

1 taxpayer which is originally placed in serv-
2 ice after December 31, 1999.”.

3 (4) TREATMENT OF QUALIFIED FACILITIES NOT
4 IN COMPLIANCE WITH POLLUTION LAWS.—Section
5 45(c)(5) (relating to qualified facilities), as amended
6 by paragraphs (2) and (3) of subsection (b), is
7 amended by adding at the end the following:

8 “(E) NONCOMPLIANCE WITH POLLUTION
9 LAWS.—For purposes of this paragraph, a facil-
10 ity which is not in compliance with the applica-
11 ble State and Federal pollution prevention, con-
12 trol, and permit requirements for any period of
13 time shall not be considered to be a qualified
14 facility during such period.”.

15 (5) PERMANENT EXTENSION OF QUALIFIED FA-
16 CILITY DATES.—Section 45(c)(5) (relating to quali-
17 fied facility), as redesignated by subsection (b)(2), is
18 amended by striking “, and before January 1, 2002”
19 in subparagraphs (A) and (B).

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to electricity and other energy pro-
22 duced after the date of the enactment of this Act.

1 **SEC. 303. TREATMENT OF FACILITIES USING BAGASSE TO**
2 **PRODUCE ENERGY AS SOLID WASTE DIS-**
3 **POSAL FACILITIES ELIGIBLE FOR TAX-EX-**
4 **EMPT FINANCING.**

5 (a) IN GENERAL.—Section 142 (relating to exempt
6 facility bond) is amended by adding at the end the fol-
7 lowing:

8 “(k) SOLID WASTE DISPOSAL FACILITIES.—For pur-
9 poses of subsection (a)(6), the term ‘solid waste disposal
10 facilities’ includes property located in Hawaii and used for
11 the collection, storage, treatment, utilization, processing,
12 or final disposal of bagasse in the manufacture of eth-
13 anol.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to bonds issued after the date of
16 the enactment of this Act.

17 **SEC. 304. DEPRECIATION OF PROPERTY USED IN THE**
18 **TRANSMISSION OF ELECTRICITY.**

19 (a) DEPRECIATION OF PROPERTY USED IN THE
20 TRANSMISSION OF ELECTRICITY.—

21 (1) IN GENERAL.—Subparagraph (C) of section
22 168(e)(3) (relating to 7-year property), as amended
23 by section 301(a)(1), is amended by striking “and”
24 at the end of clause (ii), by redesignating clause (iii)
25 as clause (iv), and by inserting after clause (ii) the
26 following:

1 “(iii) any property used in the trans-
2 mission of electricity, and”.

3 (2) 10-YEAR CLASS LIFE.—The table contained
4 in section 168(g)(3)(B), as amended by section
5 301(a)(2), is amended by inserting after the item re-
6 lating to subparagraph (C)(ii) the following:

“(C)(iii) 10”.

7 (b) DEFINITION OF PROPERTY USED IN THE TRANS-
8 MISSION OF ELECTRICITY.—Section 168(i), as amended
9 by section 301(b), is amended by adding at the end the
10 following:

11 “(16) PROPERTY USED IN THE TRANSMISSION
12 OF ELECTRICITY.—The term ‘property used in the
13 transmission of electricity’ means property used in
14 the transmission of electricity for sale.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to property placed in service after
17 the date of the enactment of this Act.

18 **TITLE IV—INCENTIVES FOR**
19 **EARLY COMMERCIAL APPLI-**
20 **CATIONS OF ADVANCED**
21 **CLEAN COAL TECHNOLOGIES**

22 **SEC. 401. CREDIT FOR INVESTMENT IN QUALIFYING AD-**
23 **VANCED CLEAN COAL TECHNOLOGY.**

24 (a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN
25 COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (re-

1 relating to amount of credit) is amended by striking “and”
 2 at the end of paragraph (2), by striking the period at the
 3 end of paragraph (3) and inserting “, and”, and by adding
 4 at the end the following:

5 “(4) the qualifying advanced clean coal tech-
 6 nology facility credit.”.

7 (b) AMOUNT OF QUALIFYING ADVANCED CLEAN
 8 COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of
 9 part IV of subchapter A of chapter 1 (relating to rules
 10 for computing investment credit), as amended by section
 11 101(a), is amended by inserting after section 48A the fol-
 12 lowing:

13 **“SEC. 48B. QUALIFYING ADVANCED CLEAN COAL TECH-**
 14 **NOLOGY FACILITY CREDIT.**

15 “(a) IN GENERAL.—For purposes of section 46, the
 16 qualifying advanced clean coal technology facility credit
 17 for any taxable year is an amount equal to 10 percent
 18 of the qualified investment in a qualifying advanced clean
 19 coal technology facility for such taxable year.

20 “(b) QUALIFYING ADVANCED CLEAN COAL TECH-
 21 NOLOGY FACILITY.—

22 “(1) IN GENERAL.—For purposes of subsection
 23 (a), the term ‘qualifying advanced clean coal tech-
 24 nology facility’ means a facility of the taxpayer
 25 which—

1 “(A)(i)(I) replaces a conventional tech-
2 nology facility of the taxpayer and the original
3 use of which commences with the taxpayer, or

4 “(II) is a retrofitted or repowered conven-
5 tional technology facility, the retrofitting or
6 repowering of which is completed by the tax-
7 payer (but only with respect to that portion of
8 the basis which is properly attributable to such
9 retrofitting or repowering), or

10 “(ii) is acquired through purchase (as de-
11 fined by section 179(d)(2)),

12 “(B) is depreciable under section 167,

13 “(C) has a useful life of not less than 4
14 years,

15 “(D) is located in the United States, and

16 “(E) uses qualifying advanced clean coal
17 technology.

18 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—

19 For purposes of subparagraph (A) of paragraph (1),
20 in the case of a facility which—

21 “(A) is originally placed in service by a
22 person, and

23 “(B) is sold and leased back by such per-
24 son, or is leased to such person, within 3
25 months after the date such facility was origi-

1 nally placed in service, for a period of not less
2 than 12 years,
3 such facility shall be treated as originally placed in
4 service not earlier than the date on which such prop-
5 erty is used under the leaseback (or lease) referred
6 to in subparagraph (B). The preceding sentence
7 shall not apply to any property if the lessee and les-
8 sor of such property make an election under this
9 sentence. Such an election, once made, may be re-
10 voked only with the consent of the Secretary.

11 “(3) QUALIFYING ADVANCED CLEAN COAL
12 TECHNOLOGY.—For purposes of paragraph (1)—

13 “(A) IN GENERAL.—The term ‘qualifying
14 advanced clean coal technology’ means, with re-
15 spect to clean coal technology—

16 “(i) multiple applications, with a com-
17 bined capacity of not more than 2,000
18 megawatts, of advanced pulverized coal or
19 atmospheric fluidized bed combustion
20 technology—

21 “(I) installed as a new, retrofit,
22 or repowering application,

23 “(II) operated between 2001 and
24 2011, and

1 “(III) with a design net heat rate
2 of not more than 9,500 Btu per kilo-
3 watt hour when the design coal has a
4 heat content of more than 8,000 Btu
5 per pound, or a design net heat rate
6 of not more than 9,900 Btu per kilo-
7 watt hour when the design coal has a
8 heat content of 8,000 Btu per pound
9 or less,

10 “(ii) multiple applications, with a
11 combined capacity of not more than 1,000
12 megawatts, of pressurized fluidized bed
13 combustion technology—

14 “(I) installed as a new, retrofit,
15 or repowering application,

16 “(II) operated between 2001 and
17 2015, and

18 “(III) with a design net heat rate
19 of not more than 8,400 Btu per kilo-
20 watt hour when the design coal has a
21 heat content of more than 8,000 Btu
22 per pound, or a design net heat rate
23 of not more than 9,900 Btu per kilo-
24 watt hour when the design coal has a

1 heat content of 8,000 Btu per pound
2 or less,

3 “(iii) multiple applications, with a
4 combined capacity of not more than 5,000
5 megawatts, of integrated gasification com-
6 bined cycle technology, with or without fuel
7 or chemical co-production—

8 “(I) installed as a new, retrofit,
9 or repowering application,

10 “(II) operated between 2001 and
11 2015,

12 “(III) with a design net heat rate
13 of not more than 8,550 Btu per kilo-
14 watt hour when the design coal has a
15 heat content of more than 8,000 Btu
16 per pound, or a design net heat rate
17 of not more than 9,900 Btu per kilo-
18 watt hour when the design coal has a
19 heat content of 8,000 Btu per pound
20 or less, and

21 “(IV) with a net thermal effi-
22 ciency on any fuel or chemical co-pro-
23 duction of not less than 39 percent
24 (higher heating value), and

1 “(iv) multiple applications, with a
2 combined capacity of not more than 2,000
3 megawatts of technology for the production
4 of electricity—

5 “(I) installed as a new, retrofit,
6 or repowering application,

7 “(II) operated between 2001 and
8 2015, and

9 “(III) with a carbon emission
10 rate which is not more than 85 per-
11 cent of conventional technology.

12 “(B) EXCEPTIONS.—Such term shall not
13 include clean coal technology projects receiving
14 or scheduled to receive funding under the Clean
15 Coal Technology Program of the Department of
16 Energy.

17 “(C) CLEAN COAL TECHNOLOGY.—The
18 term ‘clean coal technology’ means advanced
19 technology which uses coal to produce 75 per-
20 cent or more of its thermal output as electricity
21 including advanced pulverized coal or atmos-
22 pheric fluidized bed combustion, pressurized flu-
23 idized bed combustion, integrated gasification
24 combined cycle with or without fuel or chemical
25 co-production, and any other technology for the

1 production of electricity which exceeds the per-
2 formance of conventional technology.

3 “(D) CONVENTIONAL TECHNOLOGY.—The
4 term ‘conventional technology’ means—

5 “(i) coal-fired combustion technology
6 with a design net heat rate of not less than
7 9,500 Btu per kilowatt hour (HHV) and a
8 carbon equivalents emission rate of not
9 more than 0.54 pounds of carbon per kilo-
10 watt hour when the design coal has a heat
11 content of more than 8,000 Btu per
12 pound,

13 “(ii) coal-fired combustion technology
14 with a design net heat rate of not less than
15 10,500 Btu per kilowatt hour (HHV) and
16 a carbon equivalents emission rate of not
17 more than 0.60 pounds of carbon per kilo-
18 watt hour when the design coal has a heat
19 content of 8,000 Btu per pound or less, or

20 “(iii) natural gas-fired combustion
21 technology with a design net heat rate of
22 not less than 7,500 Btu per kilowatt hour
23 (HHV) and a carbon equivalents emission
24 rate of not more than 0.24 pounds of car-
25 bon per kilowatt hour.

1 “(E) DESIGN NET HEAT RATE.—The de-
2 sign net heat rate shall be based on the design
3 annual heat input to and the design annual net
4 electrical output from the qualifying advanced
5 clean coal technology (determined without re-
6 gard to such technology’s co-generation of
7 steam).

8 “(F) SELECTION CRITERIA.—Selection cri-
9 teria for clean coal technology facilities—

10 “(i) shall be established by the Sec-
11 retary of Energy as part of a competitive
12 solicitation,

13 “(ii) shall include primary criteria of
14 minimum design net heat rate, maximum
15 design thermal efficiency, and lowest cost
16 to the government, and

17 “(iii) shall include supplemental cri-
18 teria as determined appropriate by the
19 Secretary of Energy.

20 “(4) NONCOMPLIANCE WITH POLLUTION
21 LAWS.—For purposes of this subsection, a facility
22 which is not in compliance with the applicable State
23 and Federal pollution prevention, control, and per-
24 mit requirements for any period of time shall not be

1 considered to be a qualifying advanced clean coal
2 technology facility during such period.

3 “(c) QUALIFIED INVESTMENT.—For purposes of sub-
4 section (a), the term ‘qualified investment’ means, with
5 respect to any taxable year, the basis of a qualifying ad-
6 vanced clean coal technology facility placed in service by
7 the taxpayer during such taxable year.

8 “(d) QUALIFIED PROGRESS EXPENDITURES.—

9 “(1) INCREASE IN QUALIFIED INVESTMENT.—

10 In the case of a taxpayer who has made an election
11 under paragraph (5), the amount of the qualified in-
12 vestment of such taxpayer for the taxable year (de-
13 termined under subsection (c) without regard to this
14 section) shall be increased by an amount equal to
15 the aggregate of each qualified progress expenditure
16 for the taxable year with respect to progress expend-
17 iture property.

18 “(2) PROGRESS EXPENDITURE PROPERTY DE-
19 FINED.—For purposes of this subsection, the term
20 ‘progress expenditure property’ means any property
21 being constructed by or for the taxpayer and which
22 it is reasonable to believe will qualify as a qualifying
23 advanced clean coal technology facility which is
24 being constructed by or for the taxpayer when it is
25 placed in service.

1 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
2 FINED.—For purposes of this subsection—

3 “(A) SELF-CONSTRUCTED PROPERTY.—In
4 the case of any self-constructed property, the
5 term ‘qualified progress expenditures’ means
6 the amount which, for purposes of this subpart,
7 is properly chargeable (during such taxable
8 year) to capital account with respect to such
9 property.

10 “(B) NONSELF-CONSTRUCTED PROP-
11 erty.—In the case of nonself-constructed prop-
12 erty, the term ‘qualified progress expenditures’
13 means the amount paid during the taxable year
14 to another person for the construction of such
15 property.

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

18 “(A) SELF-CONSTRUCTED PROPERTY.—
19 The term ‘self-constructed property’ means
20 property for which it is reasonable to believe
21 that more than half of the construction expendi-
22 tures will be made directly by the taxpayer.

23 “(B) NONSELF-CONSTRUCTED PROP-
24 erty.—The term ‘nonself-constructed property’

1 means property which is not self-constructed
2 property.

3 “(C) CONSTRUCTION, ETC.—The term
4 ‘construction’ includes reconstruction and erec-
5 tion, and the term ‘constructed’ includes recon-
6 structed and erected.

7 “(D) ONLY CONSTRUCTION OF QUALI-
8 FYING ADVANCED CLEAN COAL TECHNOLOGY
9 FACILITY TO BE TAKEN INTO ACCOUNT.—Con-
10 struction shall be taken into account only if, for
11 purposes of this subpart, expenditures therefor
12 are properly chargeable to capital account with
13 respect to the property.

14 “(5) ELECTION.—An election under this sub-
15 section may be made at such time and in such man-
16 ner as the Secretary may by regulations prescribe.
17 Such an election shall apply to the taxable year for
18 which made and to all subsequent taxable years.
19 Such an election, once made, may not be revoked ex-
20 cept with the consent of the Secretary.

21 “(e) CREDITS FOR CERTAIN TAX EXEMPT ORGANI-
22 ZATIONS AND GOVERNMENTAL UNITS.—

23 “(1) ALLOWANCE OF CREDIT.—Any credit
24 which would be allowable under subsection (a) with
25 respect to a qualifying advanced clean coal tech-

1 nology facility of an entity if such entity were not
2 exempt from tax under this chapter shall be treated
3 as a credit allowable under subpart C to such entity
4 if such entity is—

5 “(A) an organization described in section
6 501(c)(12)(C) and exempt from tax under sec-
7 tion 501(a),

8 “(B) an organization described in section
9 1381(a)(2)(C),

10 “(C) an entity the income of which is ex-
11 cludable from gross income under section 115,
12 or

13 “(D) the Tennessee Valley Authority.

14 “(2) USE OF CREDIT.—

15 “(A) TRANSFER OF CREDIT.—An entity
16 described in subparagraph (A), (B), or (C) of
17 paragraph (1) may assign, trade, sell, or other-
18 wise transfer any credit allowable to such entity
19 under paragraph (1) to any taxpayer.

20 “(B) USE OF CREDIT AS AN OFFSET.—
21 Notwithstanding any other provision of law, in
22 the case of an entity described in subparagraph
23 (A) or (B) of paragraph (1), any credit allow-
24 able to such entity under paragraph (1) may be
25 applied by such entity, without penalty, as a

1 prepayment of any loan, debt, or other obliga-
2 tion the entity has incurred under subchapter I
3 of chapter 31 of title 7 of the Rural Electrifica-
4 tion Act of 1936 (7 U.S.C. 901 et seq.).

5 “(C) USE BY TVA.—

6 “(i) IN GENERAL.—Notwithstanding
7 any other provision of law, in the case of
8 an entity described in paragraph (1)(D),
9 any credit allowable under paragraph (1)
10 to such entity may be applied as a credit
11 against the payments required to be made
12 in any fiscal year under section 15d(e) of
13 the Tennessee Valley Authority Act of
14 1933 (16 U.S.C. 831n–4(e)) as an annual
15 return on the appropriations investment
16 and an annual repayment sum.

17 “(ii) TREATMENT OF CREDITS.—The
18 aggregate amount of credits described in
19 paragraph (1) shall be treated in the same
20 manner and to the same extent as if such
21 credits were a payment in cash and shall
22 be applied first against the annual return
23 on the appropriations investment.

24 “(iii) CREDIT CARRYOVER.—With re-
25 spect to any fiscal year, if the aggregate

1 amount of credits described in paragraph
2 (1) exceeds the aggregate amount of pay-
3 ment obligations described in clause (i),
4 the excess amount shall remain available
5 for application as credits against the
6 amounts of such payment obligations in
7 succeeding fiscal years in the same manner
8 as described in this subparagraph.

9 “(3) CREDIT NOT INCOME.—Neither a transfer
10 under subparagraph (A) or a use under subpara-
11 graph (B) of paragraph (2) of any credit allowable
12 under paragraph (1) shall result in income for pur-
13 poses of section 501(c)(12).

14 “(4) TRANSFER PROCEEDS TREATED AS ARISING
15 FROM ESSENTIAL GOVERNMENT FUNCTION.—
16 Any proceeds derived by an entity described in para-
17 graph (1)(C) from the transfer of any credit under
18 paragraph (2)(A) shall be treated as arising from an
19 essential government function.

20 “(f) COORDINATION WITH OTHER CREDITS.—This
21 section shall not apply to any property with respect to
22 which the rehabilitation credit under section 47 or the en-
23 ergy credit under section 48A is allowed unless the tax-
24 payer elects to waive the application of such credit to such
25 property.

1 “(g) TERMINATION.—This section shall not apply
2 with respect to any qualified investment made more than
3 10 years after the effective date of this section.”.

4 (c) RECAPTURE.—Section 50(a) (relating to other
5 special rules) is amended by adding at the end the fol-
6 lowing:

7 “(6) SPECIAL RULES RELATING TO QUALIFYING
8 ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—
9 For purposes of applying this subsection in the case
10 of any credit allowable by reason of section 48B, the
11 following shall apply:

12 “(A) GENERAL RULE.—In lieu of the
13 amount of the increase in tax under paragraph
14 (1), the increase in tax shall be an amount
15 equal to the investment tax credit allowed under
16 section 38 for all prior taxable years with re-
17 spect to a qualifying advanced clean coal tech-
18 nology facility (as defined by section 48B(b)(1))
19 multiplied by a fraction whose numerator is the
20 number of years remaining to fully depreciate
21 under this title the qualifying advanced clean
22 coal technology facility disposed of, and whose
23 denominator is the total number of years over
24 which such facility would otherwise have been
25 subject to depreciation. For purposes of the

1 preceding sentence, the year of disposition of
2 the qualifying advanced clean coal technology
3 facility property shall be treated as a year of re-
4 maining depreciation.

5 “(B) PROPERTY CEASES TO QUALIFY FOR
6 PROGRESS EXPENDITURES.—Rules similar to
7 the rules of paragraph (2) shall apply in the
8 case of qualified progress expenditures for a
9 qualifying advanced clean coal technology facil-
10 ity under section 48B, except that the amount
11 of the increase in tax under subparagraph (A)
12 of this paragraph shall be substituted in lieu of
13 the amount described in such paragraph (2).

14 “(C) APPLICATION OF PARAGRAPH.—This
15 paragraph shall be applied separately with re-
16 spect to the credit allowed under section 38 re-
17 garding a qualifying advanced clean coal tech-
18 nology facility.”.

19 (d) TRANSITIONAL RULE.—Section 39(d) of the In-
20 ternal Revenue Code of 1986 (relating to transitional
21 rules), as amended by section 201(e), is amended by add-
22 ing at the end the following:

23 “(13) NO CARRYBACK OF SECTION 48B CREDIT
24 BEFORE EFFECTIVE DATE.—No portion of the un-
25 used business credit for any taxable year which is

1 attributable to the qualifying advanced clean coal
2 technology facility credit determined under section
3 48B may be carried back to a taxable year ending
4 before January 1, 2002.”.

5 (e) TECHNICAL AMENDMENTS.—

6 (1) Section 49(a)(1)(C) is amended by striking
7 “and” at the end of clause (ii), by striking the pe-
8 riod at the end of clause (iii) and inserting “, and”,
9 and by adding at the end the following:

10 “(iv) the portion of the basis of any
11 qualifying advanced clean coal technology
12 facility attributable to any qualified invest-
13 ment (as defined by section 48B(c)).”.

14 (2) Section 50(a)(4) is amended by striking
15 “and (2)” and inserting “(2), and (6)”.

16 (3) Section 50(c) is amended by adding at the
17 end the following:

18 “(6) NONAPPLICATION.—Paragraphs (1) and
19 (2) shall not apply to any advanced clean coal tech-
20 nology facility credit under section 48B.”.

21 (4) The table of sections for subpart E of part
22 IV of subchapter A of chapter 1, as amended by sec-
23 tion 101(c), is amended by inserting after the item
24 relating to section 48A the following:

“Sec. 48B. Qualifying advanced clean coal technology facility credit.”.

1 (f) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to periods after December 31,
 3 2001, under rules similar to the rules of section 48(m)
 4 of the Internal Revenue Code of 1986 (as in effect on the
 5 day before the date of the enactment of the Revenue Rec-
 6 onciliation Act of 1990).

7 **SEC. 402. CREDIT FOR PRODUCTION FROM QUALIFYING**
 8 **ADVANCED CLEAN COAL TECHNOLOGY.**

9 (a) CREDIT FOR PRODUCTION FROM QUALIFYING
 10 ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of
 11 part IV of subchapter A of chapter 1 of the Internal Rev-
 12 enue Code of 1986 (relating to business related credits),
 13 as amended by section 201(a), is amended by adding at
 14 the end the following:

15 **“SEC. 45G. CREDIT FOR PRODUCTION FROM QUALIFYING**
 16 **ADVANCED CLEAN COAL TECHNOLOGY.**

17 “(a) GENERAL RULE.—For purposes of section 38,
 18 the qualifying advanced clean coal technology production
 19 credit of any taxpayer for any taxable year is equal to—

20 “(1) the applicable amount of advanced clean
 21 coal technology production credit, multiplied by

22 “(2) the sum of—

23 “(A) the kilowatt hours of electricity, plus

24 “(B) each 3,413 Btu of fuels or chemicals,

1 produced by the taxpayer during such taxable year
 2 at a qualifying advanced clean coal technology facil-
 3 ity during the 10-year period beginning on the date
 4 the facility was originally placed in service.

5 “(b) APPLICABLE AMOUNT.—For purposes of this
 6 section, the applicable amount of advanced clean coal tech-
 7 nology production credit with respect to production from
 8 a qualifying advanced clean coal technology facility shall
 9 be determined as follows:

10 “(1) Where the design coal has a heat content
 11 of more than 8,000 Btu per pound:

12 “(A) In the case of a facility originally
 13 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	\$.0050	\$.0030
More than 8,400 but not more than 8,550	\$.0010	\$.0010
More than 8,550 but not more than 8,750	\$.0005	\$.0005.

14 “(B) In the case of a facility originally
 15 placed in service after 2007 and before 2012,
 16 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	\$.0090	\$.0075
More than 7,770 but not more than 8,125	\$.0070	\$.0050
More than 8,125 but not more than 8,350	\$.0060	\$.0040.

1 “(C) In the case of a facility originally
 2 placed in service after 2011 and before 2015,
 3 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	\$.0120	\$.0090
More than 7,380 but not more than 7,720	\$.0095	\$.0070.

4 “(2) Where the design coal has a heat content
 5 of not more than 8,000 Btu per pound:

6 “(A) In the case of a facility originally
 7 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	\$.0050	\$.0030
More than 8,500 but not more than 8,650	\$.0010	\$.0010
More than 8,650 but not more than 8,750	\$.0005	\$.0005.

8 “(B) In the case of a facility originally
 9 placed in service after 2007 and before 2012,
 10 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	\$.0090	\$.0075
More than 8,000 but not more than 8,250	\$.0070	\$.0050
More than 8,250 but not more than 8,400	\$.0060	\$.0040.

11 “(C) In the case of a facility originally
 12 placed in service after 2011 and before 2015,
 13 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	\$.0120	\$.0090

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
More than 7,800 but not more than 7,950	\$.0095	\$.0070.

1 “(3) Where the clean coal technology facility is
2 producing fuel or chemicals:

3 “(A) In the case of a facility originally
4 placed in service before 2008, if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	\$.0050	\$.0030
Less than 40.6 but not less than 40 percent	\$.0010	\$.0010
Less than 40 but not less than 39 percent	\$.0005	\$.0005.

5 “(B) In the case of a facility originally
6 placed in service after 2007 and before 2012,
7 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	\$.0090	\$.0075
Less than 43.9 but not less than 42 percent	\$.0070	\$.0050
Less than 42 but not less than 40.9 percent	\$.0060	\$.0040.

8 “(C) In the case of a facility originally
9 placed in service after 2011 and before 2015,
10 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	\$.0120	\$.0090
Less than 44.2 but not less than 43.6 percent	\$.0095	\$.0070.

11 “(c) INFLATION ADJUSTMENT FACTOR.—For cal-
12 endar years after 2001, each amount in paragraphs (1),

1 (2), and (3) shall be adjusted by multiplying such amount
2 by the inflation adjustment factor for the calendar year
3 in which the amount is applied. If any amount as in-
4 creased under the preceding sentence is not a multiple of
5 0.01 cent, such amount shall be rounded to the nearest
6 multiple of 0.01 cent.

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

9 “(1) IN GENERAL.—Any term used in this sec-
10 tion which is also used in section 48B shall have the
11 meaning given such term in section 48B.

12 “(2) APPLICABLE RULES.—The rules of para-
13 graphs (3), (4), and (5) of section 45(d) and section
14 48B(e) shall apply.

15 “(3) INFLATION ADJUSTMENT FACTOR.—The
16 term ‘inflation adjustment factor’ means, with re-
17 spect to a calendar year, a fraction the numerator
18 of which is the GDP implicit price deflator for the
19 preceding calendar year and the denominator of
20 which is the GDP implicit price deflator for the cal-
21 endar year 2000.

22 “(4) GDP IMPLICIT PRICE DEFLATOR.—The
23 term ‘GDP implicit price deflator’ means the most
24 recent revision of the implicit price deflator for the
25 gross domestic product as computed by the Depart-

1 ment of Commerce before March 15 of the calendar
2 year.”.

3 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
4 tion 38(b), as amended by section 201(b), is amended by
5 striking “plus” at the end of paragraph (14), by striking
6 the period at the end of paragraph (15) and inserting “,
7 plus”, and by adding at the end the following:

8 “(16) the qualifying advanced clean coal tech-
9 nology production credit determined under section
10 45G(a).”.

11 (c) TRANSITIONAL RULE.—Section 39(d) (relating to
12 transitional rules), as amended by section 401(d), is
13 amended by adding at the end the following:

14 “(14) NO CARRYBACK OF SECTION 45G CREDIT
15 BEFORE EFFECTIVE DATE.—No portion of the un-
16 used business credit for any taxable year which is
17 attributable to the qualifying advanced clean coal
18 technology production credit determined under sec-
19 tion 45G may be carried back to a taxable year end-
20 ing before the date of the enactment of section
21 45G.”.

22 (d) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1,
24 as amended by section 201(g), is amended by adding at
25 the end the following:

“Sec. 45G. Credit for production from qualifying advanced clean coal technology.”.

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

4 **SEC. 403. RISK POOL FOR QUALIFYING ADVANCED CLEAN**
5 **COAL TECHNOLOGY.**

6 (a) ESTABLISHMENT.—The Secretary of the Treas-
7 ury shall establish a financial risk pool which shall be
8 available to any United States owner of a qualifying ad-
9 vanced clean coal technology which has qualified for an
10 advanced clean coal technology production credit (as de-
11 fined in section 45G of the Internal Revenue Code of
12 1986, as added by section 402) to offset for the first 3
13 years of the operation of such technology the costs (not
14 to exceed 5 percent of the total cost of installation) for
15 modifications resulting from the technology’s failure to
16 achieve its design performance.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated such sums as are necessary
19 to carry out the purposes of this section.

1 **TITLE V—HEATING FUELS AND**
2 **STORAGE.**

3 **SEC. 501. FULL EXPENSING OF HOME HEATING OIL AND**
4 **PROPANE STORAGE FACILITIES.**

5 (a) IN GENERAL.—Section 179(b) (relating to limita-
6 tions) is amended by adding at the end the following:

7 “(5) FULL EXPENSING OF HOME HEATING OIL
8 AND PROPANE STORAGE FACILITIES.—Paragraphs
9 (1) and (2) shall not apply to section 179 property
10 which is any storage facility (not including a build-
11 ing or its structural components) used in connection
12 with the distribution of home heating oil or liquefied
13 petroleum gas.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to property placed in service on
16 or after the date of the enactment of this Act.

17 **SEC. 502. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**
18 **MENTS FOR NATURAL GAS AND OTHER COM-**
19 **MODITIES.**

20 (a) IN GENERAL.—Subsection (b) of section 148 (de-
21 fining higher yielding investments) is amended by adding
22 at the end the following:

23 “(4) INVESTMENT PROPERTY NOT TO INCLUDE
24 CERTAIN PREPAYMENTS TO ENSURE COMMODITY
25 SUPPLY.—The term ‘investment property’ shall not

1 include a prepayment entered into for the purpose of
2 obtaining a supply of a commodity reasonably ex-
3 pected to be used in a business of one or more utili-
4 ties each of which is owned and operated by a State
5 or local government, any political subdivision or in-
6 strumentality thereof, or any governmental unit act-
7 ing for or on behalf of such a utility.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to obligations issued after the date
10 of the enactment of this Act.

11 **SEC. 503. PRIVATE LOAN FINANCING TEST NOT TO APPLY**
12 **TO PREPAYMENTS FOR NATURAL GAS AND**
13 **OTHER COMMODITIES.**

14 (a) IN GENERAL.—Section 141(c)(2) (providing ex-
15 ceptions to the private loan financing test) is amended by
16 striking “or” at the end of subparagraph (A), by striking
17 the period at the end of subparagraph (B) and inserting
18 “, or”, and by adding at the end the following:

19 “(C) arises from a transaction described in
20 section 148(b)(4).”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to obligations issued after the date
23 of the enactment of this Act.

1 **TITLE VI—OIL AND GAS**
2 **PRODUCTION**

3 **SEC. 601. CREDIT FOR PRODUCTION OF RE-REFINED LU-**
4 **BRICATING OIL.**

5 (a) **IN GENERAL.**—Subpart D of part IV of sub-
6 chapter A of chapter 1 (relating to business related cred-
7 its), as amended by section 402(a), is amended by adding
8 at the end the following:

9 **“SEC. 45H. CREDIT FOR PRODUCING RE-REFINED LUBRI-**
10 **CATING OIL.**

11 “(a) **GENERAL RULE.**—For purposes of section 38,
12 the re-refined lubricating oil production credit of any tax-
13 payer for any taxable year is equal to \$4.05 per barrel
14 of qualified re-refined lubricating oil production which is
15 attributable to the taxpayer (within the meaning of section
16 29(d)(3)).

17 “(b) **QUALIFIED RE-REFINED LUBRICATING OIL**
18 **PRODUCTION.**—For purposes of this section—

19 “(1) **IN GENERAL.**—The term ‘qualified re-re-
20 fined lubricating oil production’ means a base oil
21 manufactured from at least 95 percent used oil and
22 not more than 2 percent of previously unused oil by
23 a re-refining process at a qualified facility which ef-
24 fectively removes physical and chemical impurities
25 and spent and unspent additives to the extent that

1 such base oil meets industry standards for engine oil
2 as defined by the American Petroleum Institute doc-
3 ument API 1509 as in effect on the date of the en-
4 actment of this section.

5 “(2) LIMITATION ON AMOUNT OF PRODUCTION
6 WHICH MAY QUALIFY.—Re-refined lubricating oil
7 produced during any taxable year shall not be treat-
8 ed as qualified re-refined lubricating oil production
9 but only to the extent average daily production dur-
10 ing the taxable year exceeds 7,000 barrels.

11 “(3) BARREL.—The term ‘barrel’ has the
12 meaning given such term by section 613A(e)(4).

13 “(4) NONCOMPLIANCE WITH POLLUTION
14 LAWS.—For purposes of paragraph (1), a facility
15 which is not in compliance with the applicable State
16 and Federal pollution prevention, control, and per-
17 mit requirements for any period of time shall not be
18 considered to be a qualified facility during such pe-
19 riod.

20 “(c) INFLATION ADJUSTMENT.—In the case of any
21 taxable year beginning in a calendar year after 2001, the
22 dollar amount contained in subsection (a) shall be in-
23 creased to an amount equal to such dollar amount multi-
24 plied by the inflation adjustment factor for such calendar

1 year (determined under section 29(d)(2)(B) by substituting ‘2000’ for ‘1979’).”.

3 (b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 402(b), 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:

9 “(17) the re-refined lubricating oil production credit determined under section 45H(a).”.

11 (c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 402(d), is amended by adding at the end the following:

“Sec. 45H. Credit for producing re-refined lubricating oil.”.

15 (d) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

18 **SEC. 602. OIL AND GAS FROM MARGINAL WELLS.**

19 (a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by section 601(a), is amended by adding at the end the following:

1 **“SEC. 45I. CREDIT FOR PRODUCING OIL AND GAS FROM**
2 **MARGINAL WELLS.**

3 “(a) GENERAL RULE.—For purposes of section 38,
4 the marginal well production credit for any taxable year
5 is an amount equal to the product of—

6 “(1) the credit amount, and

7 “(2) the qualified credit oil production and the
8 qualified natural gas production which is attrib-
9 utable to the taxpayer.

10 “(b) CREDIT AMOUNT.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The credit amount is—

13 “(A) \$3 per barrel of qualified crude oil
14 production, and

15 “(B) 50 cents per 1,000 cubic feet of
16 qualified natural gas production.

17 “(2) REDUCTION AS OIL AND GAS PRICES IN-
18 CREASE.—

19 “(A) IN GENERAL.—The \$3 and 50 cents
20 amounts under paragraph (1) shall each be re-
21 duced (but not below zero) by an amount which
22 bears the same ratio to such amount (deter-
23 mined without regard to this paragraph) as—

24 “(i) the excess (if any) of the applica-
25 ble reference price over \$14 (\$1.56 for
26 qualified natural gas production), bears to

1 “(ii) \$3 (\$0.33 for qualified natural
2 gas production).

3 The applicable reference price for a taxable
4 year is the reference price of the calendar year
5 preceding the calendar year in which the tax-
6 able year begins.

7 “(B) INFLATION ADJUSTMENT.—In the
8 case of any taxable year beginning in a calendar
9 year after 2001, each of the dollar amounts
10 contained in subparagraph (A) shall be in-
11 creased to an amount equal to such dollar
12 amount multiplied by the inflation adjustment
13 factor for such calendar year (determined under
14 section 43(b)(3)(B) by substituting ‘2000’ for
15 ‘1990’).

16 “(C) REFERENCE PRICE.—For purposes of
17 this paragraph, the term ‘reference price’
18 means, with respect to any calendar year—

19 “(i) in the case of qualified crude oil
20 production, the reference price determined
21 under section 29(d)(2)(C), and

22 “(ii) in the case of qualified natural
23 gas production, the Secretary’s estimate of
24 the annual average wellhead price per

1 1,000 cubic feet for all domestic natural
2 gas.

3 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
4 PRODUCTION.—For purposes of this section—

5 “(1) IN GENERAL.—The terms ‘qualified crude
6 oil production’ and ‘qualified natural gas production’
7 mean domestic crude oil or natural gas which is pro-
8 duced from a qualified marginal well.

9 “(2) LIMITATION ON AMOUNT OF PRODUCTION
10 WHICH MAY QUALIFY.—

11 “(A) IN GENERAL.—Crude oil or natural
12 gas produced during any taxable year from any
13 well shall not be treated or qualified crude oil
14 production or qualified natural gas production
15 to the extent production from the well during
16 the taxable year exceeds 1,095 barrels or barrel
17 equivalents.

18 “(B) PROPORTIONATE REDUCTIONS.—

19 “(i) SHORT TAXABLE YEARS.—In the
20 case of a short taxable year, the limitations
21 under this paragraph shall be proportion-
22 ately reduced to reflect the ratio which the
23 number of days in such taxable year bears
24 to 365.

1 “(ii) WELLS NOT IN PRODUCTION EN-
2 TIRE YEAR.—In the case of a well which is
3 not capable of production during each day
4 of a taxable year, the limitations under
5 this paragraph applicable to the well shall
6 be proportionately reduced to reflect the
7 ratio which the number of days of produc-
8 tion bears to the total number of days in
9 the taxable year.

10 “(3) DEFINITIONS.—

11 “(A) QUALIFIED MARGINAL WELL.—The
12 term ‘qualified marginal well’ means a domestic
13 well—

14 “(i) the production from which during
15 the taxable year is treated as marginal
16 production under section 613A(c)(6), or

17 “(ii) which, during the taxable year—

18 “(I) has average daily production
19 of not more than 25 barrel equiva-
20 lents, and

21 “(II) produces water at a rate
22 not less than 95 percent of total well
23 effluent.

24 “(B) CRUDE OIL, ETC.—The terms ‘crude
25 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have

1 the meanings given such terms by section
2 613A(e).

3 “(C) BARREL EQUIVALENT.—The term
4 ‘barrel equivalent’ means, with respect to nat-
5 ural gas, a conversion ratio of 6,000 cubic
6 feet of natural gas to 1 barrel of crude oil.

7 “(d) OTHER RULES.—

8 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
9 PAYER.—In the case of a qualified marginal well in
10 which there is more than one owner of operating in-
11 terests in the well and the crude oil or natural gas
12 production exceeds the limitation under subsection
13 (c)(2), qualifying crude oil production or qualifying
14 natural gas production attributable to the taxpayer
15 shall be determined on the basis of the ratio which
16 taxpayer’s revenue interest in the production bears
17 to the aggregate of the revenue interests of all oper-
18 ating interest owners in the production.

19 “(2) OPERATING INTEREST REQUIRED.—Any
20 credit under this section may be claimed only on
21 production which is attributable to the holder of an
22 operating interest.

23 “(3) PRODUCTION FROM NONCONVENTIONAL
24 SOURCES EXCLUDED.—In the case of production
25 from a qualified marginal well which is eligible for

1 the credit allowed under section 29 for the taxable
2 year, no credit shall be allowable under this section
3 unless the taxpayer elects not to claim the credit
4 under section 29 with respect to the well.

5 “(4) NONCOMPLIANCE WITH POLLUTION
6 LAWS.—For purposes of subsection (c)(3)(A), a
7 marginal well which is not in compliance with the
8 applicable State and Federal pollution prevention,
9 control, and permit requirements for any period of
10 time shall not be considered to be a qualified mar-
11 ginal well during such period.”.

12 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
13 tion 38(b), as amended by section 601(b), is amended by
14 striking ‘plus’ at the end of paragraph (16), by striking
15 the period at the end of paragraph (17) and inserting “,
16 plus”, and by adding at the end the following:

17 “(18) the marginal oil and gas well production
18 credit determined under section 45I(a).”.

19 (c) CREDIT ALLOWED AGAINST REGULAR AND MIN-
20 IMUM TAX.—

21 (1) IN GENERAL.—Subsection (c) of section 38
22 (relating to limitation based on amount of tax), as
23 amended by section 201(d)(1), is amended by redес-
24 ignating paragraph (4) as paragraph (5) and by in-
25 serting after paragraph (3) the following:

1 “(4) SPECIAL RULES FOR MARGINAL OIL AND
2 GAS WELL PRODUCTION CREDIT.—

3 “(A) IN GENERAL.—In the case of the
4 marginal oil and gas well production credit—

5 “(i) this section and section 39 shall
6 be applied separately with respect to the
7 credit, and

8 “(ii) in applying paragraph (1) to the
9 credit—

10 “(I) subparagraphs (A) and (B)
11 thereof shall not apply, and

12 “(II) the limitation under para-
13 graph (1) (as modified by subclause
14 (I)) shall be reduced by the credit al-
15 lowed under subsection (a) for the
16 taxable year (other than the marginal
17 oil and gas well production credit).

18 “(B) MARGINAL OIL AND GAS WELL PRO-
19 DUCTION CREDIT.—For purposes of this sub-
20 section, the term ‘marginal oil and gas well pro-
21 duction credit’ means the credit allowable under
22 subsection (a) by reason of section 45I(a).”.

23 (2) CONFORMING AMENDMENTS.—Subclause
24 (II) of section 38(c)(2)(A)(ii), as amended by section
25 201(d)(2), and subclause (II) of section

1 38(c)(3)(A)(ii), as added by section 201(d)(1), are
2 each amended by inserting “or the marginal oil and
3 gas well production credit” after “home credit”.

4 (d) CARRYBACK.—Subsection (a) of section 39 (relat-
5 ing to carryback and carryforward of unused credits gen-
6 erally) is amended by adding at the end the following:

7 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
8 AND GAS WELL PRODUCTION CREDIT.—In the case
9 of the marginal oil and gas well production credit—

10 “(A) this section shall be applied sepa-
11 rately from the business credit (other than the
12 marginal oil and gas well production credit),

13 “(B) paragraph (1) shall be applied by
14 substituting ‘10 taxable years’ for ‘1 taxable
15 years’ in subparagraph (A) thereof, and

16 “(C) paragraph (2) shall be applied—

17 “(i) by substituting ‘31 taxable years’
18 for ‘21 taxable years’ in subparagraph (A)
19 thereof, and

20 “(ii) by substituting ‘30 taxable years’
21 for ‘20 taxable years’ in subparagraph (A)
22 thereof.”.

23 (e) COORDINATION WITH SECTION 29.—Section
24 29(a) is amended by striking “There” and inserting “At
25 the election of the taxpayer, there”.

1 (f) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter I,
 3 as amended by section 601(c), is amended by adding at
 4 the end the following:

“Sec. 45I. Credit for producing oil and gas from marginal wells.”.

5 (g) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to production in taxable years be-
 7 ginning after December 31, 2001.

8 **SEC. 603. DEDUCTION FOR DELAY RENTAL PAYMENTS.**

9 (a) IN GENERAL.—Section 263 (relating to capital
 10 expenditures) is amended by adding at the end the fol-
 11 lowing:

12 “(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL
 13 AND GAS WELLS.—

14 “(1) IN GENERAL.—Notwithstanding subsection
 15 (a), a taxpayer may elect to treat delay rental pay-
 16 ments incurred in connection with the development
 17 of oil or gas within the United States (as defined in
 18 section 638) as payments which are not chargeable
 19 to capital account. Any payments so treated shall be
 20 allowed as a deduction in the taxable year in which
 21 paid or incurred.

22 “(2) DELAY RENTAL PAYMENTS.—For purposes
 23 of paragraph (1), the term ‘delay rental payment’
 24 means an amount paid for the privilege of deferring

1 development of an oil or gas well under an oil or gas
2 lease.”.

3 (b) CONFORMING AMENDMENT.—Section 263A(c)(3)
4 is amended by inserting “263(j),” after ‘263(i),’.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to amounts paid or incurred in tax-
7 able years beginning after December 31, 2001.

8 **SEC. 604. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**
9 **PHYSICAL EXPENDITURES.**

10 (a) IN GENERAL.—Section 263 (relating to capital
11 expenditures), as amended by section 603(a), is amended
12 by adding at the end the following:

13 “(k) GEOLOGICAL AND GEOPHYSICAL EXPENDI-
14 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-
15 standing subsection (a), a taxpayer may elect to treat geo-
16 logical and geophysical expenses incurred in connection
17 with the exploration for, or development of, oil or gas with-
18 in the United States (as defined in section 638) as ex-
19 penses which are not chargeable to capital account. Any
20 expenses so treated shall be allowed as a deduction in the
21 taxable year in which paid or incurred.”.

22 (b) CONFORMING AMENDMENT.—Section
23 263A(c)(3), as amended by section 603(b), is amended by
24 inserting “263(k),” after “263(j),”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to costs paid or incurred in taxable
 3 years beginning after December 31, 2001.

4 **SEC. 605. GAS PIPELINES TREATED AS 7-YEAR PROPERTY.**

5 (a) IN GENERAL.—Subparagraph (C) of section
 6 168(e)(3) (relating to classification of certain property),
 7 as amended by section 304(a)(1), is amended by striking
 8 “and” at the end of clause (iii), by redesignating clause
 9 (iv) as clause (v), and by inserting after clause (iii) the
 10 following:

11 “(iv) any gas pipeline, and”.

12 (b) GAS PIPELINE.—Subsection (i) of section 168, as
 13 amended by section 304(b), is amended by adding at the
 14 end the following:

15 “(17) GAS PIPELINE.—The term ‘gas pipeline’
 16 means the pipe, storage facilities, equipment, dis-
 17 tribution infrastructure, and appurtenances used to
 18 deliver natural gas.”

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
 21 this section shall apply to property placed in service
 22 on or after the date of the enactment of this Act.

23 (2) ACCOUNTING RULE FOR PUBLIC UTILITY
 24 PROPERTY.—If any gas pipeline is public utility
 25 property (as defined in section 46(f)(5) of the Inter-

1 nal Revenue Code of 1986, as in effect on the day
 2 before the date of the enactment of the Revenue
 3 Reconciliation Act of 1990), the amendments made
 4 by this section shall only apply to such property if,
 5 with respect to such property, the taxpayer uses a
 6 normalization method of accounting.

7 **SEC. 606. CRUDE OIL AND NATURAL GAS DEVELOPMENT**
 8 **CREDIT.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-
 10 chapter A of chapter 1 (relating to business related cred-
 11 its), as amended by section 602(a), is amended by adding
 12 at the end the following:

13 **“SEC. 45J. CRUDE OIL AND NATURAL GAS DEVELOPMENT**
 14 **CREDIT.**

15 “(a) IN GENERAL.—For purposes of section 38, the
 16 crude oil and natural gas development credit determined
 17 under this section for any taxable year shall be an amount
 18 equal to the taxpayer’s qualified investment for the taxable
 19 year.

20 “(b) REDUCTION AS OIL AND GAS PRICES IN-
 21 CREASE.—

22 “(1) IN GENERAL.—The amount which would
 23 (but for this subsection) be taken into account under
 24 subsection (a) for the taxable year shall be reduced
 25 (but not below zero) by an amount which bears the

1 same ratio to such amount (determined without re-
2 gard to this subsection) as—

3 “(A) the excess (if any) of the applicable
4 reference price over \$11, bears to

5 “(B) \$3.

6 The applicable reference price for a taxable
7 year is the reference price of the calendar year
8 preceding the calendar year in which the tax-
9 able year begins.

10 “(2) INFLATION ADJUSTMENT.—In the case of
11 any taxable year beginning in a calendar year after
12 2001, each of the dollar amounts contained in para-
13 graph (1) shall be increased to an amount equal to
14 such dollar amount multiplied by the inflation ad-
15 justment factor for such calendar year (determined
16 under section 43(b)(3)(B) by substituting ‘2000’ for
17 ‘1990’).

18 “(3) REFERENCE PRICE.—For purposes of this
19 subsection, the term ‘reference price’ means, with re-
20 spect to any calendar year, the reference price deter-
21 mined under section 29(d)(2)(C).

22 “(c) QUALIFIED INVESTMENT.—For purposes of this
23 section, the term ‘qualified investment’ means amounts
24 paid or incurred—

1 “(1) for the purpose of drilling and equipping
2 crude oil and natural gas wells (including pollution
3 control equipment used in connection with such
4 wells), or

5 “(2) for the purpose of performing secondary or
6 tertiary recovery techniques,

7 on properties located within the United States (as defined
8 in section 638), but only to the extent that the expenditure
9 is not taken into account for purposes of a credit under
10 any other section.

11 “(d) SPECIAL RULES.—For purposes of this
12 section—

13 “(1) AGGREGATION OF QUALIFIED INVESTMENT
14 EXPENSES.—

15 “(A) CONTROLLED GROUPS; COMMON CON-
16 TROL.—In determining the amount of the cred-
17 it under this section, all members of the same
18 controlled group of corporations (within the
19 meaning of section 52(a)) and all persons under
20 common control (within the meaning of section
21 52(b)) shall be treated as a single taxpayer for
22 purposes of this section.

23 “(B) APPORTIONMENT OF CREDIT.—The
24 credit (if any) allowable by this section to mem-
25 bers of any group (or to any person) described

1 in subparagraph (A) shall be such member's or
2 person's proportionate share of the qualified in-
3 vestment expenses giving rise to the credit de-
4 termined under regulations prescribed by the
5 Secretary.

6 “(2) PARTNERSHIPS, S CORPORATIONS, ES-
7 TATES AND TRUSTS.—

8 “(A) PARTNERSHIPS AND S CORPORA-
9 TIONS.—In the case of a partnership, the credit
10 shall be allocated among partners under regula-
11 tions prescribed by the Secretary. A similar rule
12 shall apply in the case of an S corporation and
13 its shareholders.

14 “(B) PASS-THRU IN THE CASE OF ES-
15 TATES AND TRUSTS.—Under regulations pre-
16 scribed by the Secretary, rules similar to the
17 rules of subsection (d) of section 52 shall apply.

18 “(3) ADJUSTMENTS FOR CERTAIN ACQUISI-
19 TIONS AND DISPOSITIONS.—Under regulations pre-
20 scribed by the Secretary, rules similar to the rules
21 contained in section 41(f)(3) shall apply with respect
22 to the acquisition or disposition of a taxpayer.

23 “(4) SHORT TAXABLE YEARS.—In the case of
24 any short taxable year, qualified investment expenses
25 shall be annualized in such circumstances and under

1 such methods as the Secretary may prescribe by reg-
2 ulation.

3 “(5) DENIAL OF DOUBLE BENEFIT.—

4 “(A) DISALLOWANCE OF DEDUCTION.—

5 Any deduction allowable under this chapter for
6 any costs taken into account in computing the
7 amount of the credit determined under sub-
8 section (a) shall be reduced by the amount of
9 such credit attributable to such costs.

10 “(B) BASIS ADJUSTMENTS.—For purposes
11 of this subtitle, if a credit is determined under
12 this section for any expenditure with respect to
13 any property, the increase in the basis of such
14 property which would (but for this subsection)
15 result from such expenditures shall be reduced
16 by the amount of the credit so allowed.”.

17 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
18 tion 38(b), as amended by section 602(b), is amended by
19 striking “plus” at the end of paragraph (17), by striking
20 the period at the end of paragraph (18) and inserting
21 “, plus”, and by adding at the end the following:

22 “(19) the crude oil and natural gas develop-
23 ment credit determined under section 45J(a).”.

1 (c) TRANSITIONAL RULE.—Section 39(d) (relating to
 2 transitional rules), as amended by section 402(c), is
 3 amended by adding at the end the following:

4 “(15) NO CARRYBACK OF SECTION 45J CREDIT
 5 BEFORE EFFECTIVE DATE.—No portion of the un-
 6 used business credit for any taxable year which is
 7 attributable to the crude oil and natural gas develop-
 8 ment credit determined under section 48J may be
 9 carried back to a taxable year ending before January
 10 1, 2002.”.

11 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
 12 IMUM TAX.—

13 (1) IN GENERAL.—Subsection (c) of section 38
 14 (relating to limitation based on amount of tax), as
 15 amended by section 602(c)(1), is amended by redес-
 16 ignating paragraph (5) as paragraph (6) and by in-
 17 serting after paragraph (4) the following:

18 “(5) SPECIAL RULES FOR CRUDE OIL AND NAT-
 19 URAL GAS DEVELOPMENT CREDIT.—

20 “(A) IN GENERAL.—In the case of the
 21 crude oil and natural gas development credit—

22 “(i) this section and section 39 shall
 23 be applied separately with respect to the
 24 credit, and

1 “(ii) in applying paragraph (1) to the
2 credit—

3 “(I) subparagraphs (A) and (B)
4 thereof shall not apply, and

5 “(II) the limitation under para-
6 graph (1) (as modified by subclause
7 (I)) shall be reduced by the credit al-
8 lowed under subsection (a) for the
9 taxable year (other than the crude oil
10 and natural gas development credit).

11 “(B) CRUDE OIL AND NATURAL GAS DE-
12 VELOPMENT CREDIT.—For purposes of this
13 subsection, the term ‘crude oil and natural gas
14 development credit’ means the credit allowable
15 under subsection (a) by reason of section
16 45J(a).”.

17 (2) CONFORMING AMENDMENTS.—Subclause
18 (II) of section 38(c)(2)(A)(ii) and subclause (II) of
19 section 38(c)(3)(A)(ii), as amended by section
20 602(c)(2), and subclause (II) of section
21 38(c)(4)(A)(ii), as added by section 602(c)(1), are
22 each amended by inserting “or the crude oil and
23 natural gas development credit” after “well produc-
24 tion credit”.

1 (e) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1,
 3 as amended by section 602(f), is amended by adding at
 4 the end the following:

“Sec. 45J. Crude oil and natural gas development credit.”.

5 (f) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to expenditures paid or incurred
 7 in taxable years beginning after December 31, 2001.

8 **SEC. 607. CREDIT FOR CAPTURE OF COALMINE METHANE**
 9 **GAS.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-
 11 chapter A of chapter 1 (relating to business related cred-
 12 its), as amended by section 606(a), is amended by adding
 13 at the end the following:

14 **“SEC. 45K. CAPTURE OF COALMINE METHANE GAS.**

15 “(a) IN GENERAL.—For purposes of section 38, the
 16 coalmine methane gas capture credit of any taxpayer for
 17 any taxable year is \$1.21 for 1,000,000 Btu of coalmine
 18 methane gas captured by the taxpayer and utilized as a
 19 fuel source or sold by or on behalf of the taxpayer to an
 20 unrelated person during such taxable year (within the
 21 meaning of section 45).

22 “(b) COALMINE METHANE GAS.—For purposes of
 23 this section, the term ‘coalmine methane gas’ means any
 24 methane gas which is being liberated, or would be liber-
 25 ated, during qualified coal mining operations or as a result

1 of past qualified coal mining operations, or which is ex-
2 tracted up to 10 years in advance of qualified coal mining
3 operations as part of specific plan to mine a coal deposit.

4 “(c) SPECIAL RULE FOR ADVANCED EXTRACTION.—
5 In the case of coalmine methane gas which is captured
6 in advance of qualified coal mining operations, the credit
7 under subsection (a) shall be allowed only after the date
8 the coal extraction occurs in the immediate area where the
9 coalmine methane gas was removed.

10 “(d) NONCOMPLIANCE WITH POLLUTION LAWS.—For
11 purposes of subsections (b) and (c), coal mining operations
12 which are not in compliance with the applicable State and
13 Federal pollution prevention, control, and permit require-
14 ments for any period of time shall not be considered to
15 be qualified coal mining operations during such period.

16 “(e) APPLICATION OF RULES.—For purposes of this
17 section, rules similar to the rules of paragraphs (3), (4),
18 and (5) of section 45(d) shall apply.”.

19 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
20 tion 38(b), as amended by section 606(b), is amended by
21 striking “plus” at the end of paragraph (18), by striking
22 the period at the end of paragraph (19) and inserting
23 “, plus”, and by adding at the end the following:

24 “(20) the coalmine methane gas capture credit
25 determined under section 45K(a).”.

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1,
 3 as amended by section 606(c), is amended by adding at
 4 the end the following:

“Sec. 45K. Capture of coalmine methane gas.”.

5 (d) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to the capture of coalmine methane
 7 gas after the date of the enactment of this Act.

8 **SEC. 608. ALLOCATION OF ALCOHOL FUELS CREDIT TO**
 9 **PATRONS OF A COOPERATIVE.**

10 (a) IN GENERAL.—Section 40(d) (relating to alcohol
 11 used as fuel) is amended by adding at the end the fol-
 12 lowing:

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

15 “(A) IN GENERAL.—In the case of a coop-
 16 erative organization described in section
 17 1381(a), any portion of the credit determined
 18 under subsection (a)(3) for the taxable year
 19 may, at the election of the organization made
 20 on a timely filed return (including extensions)
 21 for such year, be apportioned pro rata among
 22 patrons of the organization on the basis of the
 23 quantity or value of business done with or for
 24 such patrons for the taxable year. Such an elec-

1 tion, once made, shall be irrevocable for such
2 taxable year.

3 “(B) TREATMENT OF ORGANIZATIONS AND
4 PATRONS.—The amount of the credit appor-
5 tioned to patrons pursuant to subparagraph
6 (A)—

7 “(i) shall not be included in the
8 amount determined under subsection (a)
9 for the taxable year of the organization,
10 and

11 “(ii) shall be included in the amount
12 determined under subsection (a) for the
13 taxable year of each patron in which the
14 patronage dividend for the taxable year re-
15 ferred to in subparagraph (A) is includible
16 in gross income.

17 “(C) SPECIAL RULE FOR DECREASING
18 CREDIT FOR TAXABLE YEAR.—If the amount of
19 the credit of a cooperative organization deter-
20 mined under subsection (a)(3) for a taxable
21 year is less than the amount of such credit
22 shown on the cooperative organization’s return
23 for such year, an amount equal to the excess of
24 such reduction over the amount not apportioned
25 to the patrons under subparagraph (A) for the

1 taxable year shall be treated as an increase in
2 tax imposed by this chapter on the organiza-
3 tion. Any such increase shall not be treated as
4 tax imposed by this chapter for purposes of de-
5 termining the amount of any credit under this
6 subpart or subpart A, B, E, or G of this part.”.

7 (b) TECHNICAL AMENDMENT.—Section 1388 (relat-
8 ing to definitions and special rules for cooperative organi-
9 zations) is amended by adding at the end the following:

10 “(k) CROSS REFERENCE.—For provisions relating to
11 the apportionment of the alcohol fuels credit between coop-
12 erative organizations and their patrons, see section
13 40(d)(6).”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2001.

17 **SEC. 609. EXTENSION OF CREDIT FOR PRODUCING FUEL**
18 **FROM A NONCONVENTIONAL SOURCE.**

19 (a) INCLUSION OF ALASKA NATURAL GAS.—Section
20 29(c)(1) (defining qualified fuels) is amended by striking
21 “and” at the end of subparagraph (B)(ii), by striking the
22 period at the end of subparagraph (C) and inserting “,
23 and”, and by adding at the end the following:

24 “(D) Alaska natural gas.”.

1 (b) DEFINITION.—Section 29(c) is amended by add-
2 ing at the end the following:

3 “(4) ALASKA NATURAL GAS.—The term ‘Alaska
4 natural gas’ means gas produced in compliance with
5 the applicable State and Federal pollution preven-
6 tion, control, and permit requirements from the area
7 generally known as the North Slope of Alaska (in-
8 cluding the continental shelf thereof within the
9 meaning of section 638(1)), determined without re-
10 gard to the area of the Alaska National Wildlife Ref-
11 uge (including the continental shelf thereof within
12 the meaning of section 638(1)).”.

13 (c) AMOUNT OF CREDIT.—

14 (1) IN GENERAL.—Section 29(a)(1) (relating to
15 allowance of credit) is amended by inserting “(\$1.45
16 in the case of a qualified fuel described in subsection
17 (c)(1)(D))” after “\$3”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 29(b)(2) is amended by strik-
20 ing “The \$3 amount” and inserting “The \$3
21 and \$1.45 amounts”.

22 (B) Section 29(d)(2)(B) is amended by in-
23 serting “(calendar year 2001 in the case of the
24 \$1.45 amount in subsection (a)(1))” after
25 “1979”.

1 (d) EXTENSION OF CREDIT.—Section 29(g) (relating
2 to extension for certain facilities) is amended by adding
3 at the end the following:

4 “(3) SPECIAL RULE FOR ALASKA NATURAL GAS
5 WELLS.—In the case of a well for producing quali-
6 fied fuel described in subsection (c)(1)(D)—

7 “(A) for purposes of subsection (f)(1)(A),
8 such well shall be treated as being placed in
9 service before January 1, 1993, if such well is
10 placed in service before January 1, 2009, and

11 “(B) subsection (f)(2) shall be applied with
12 respect to such well by substituting ‘after De-
13 cember 31, 2001, and before January 1, 2009’
14 for ‘before January 1, 2003’.”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years ending after De-
17 cember 31, 2001.

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