

108TH CONGRESS  
2D SESSION

# H. R. 4652

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a fuel additive, to require Federal fleet vehicles to use ethanol fuel, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2004

Mr. NUSSLE (for himself and Mr. LATHAM) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a fuel additive, to require Federal fleet vehicles to use ethanol fuel, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Energy Independence Act of 2004”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—RENEWABLE FUELS INCENTIVES

- Sec. 201. Extension and expansion of credit for electricity produced from certain renewable resources.
- Sec. 202. Small ethanol producer credit.
- Sec. 203. Credit for energy efficient appliances.
- Sec. 204. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.
- Sec. 205. Credit for construction of new energy efficient home.
- Sec. 206. Credit for energy efficiency improvements to existing homes.
- Sec. 207. Special rules for credit for electricity produced from certain renewable resources.
- Sec. 208. Alcohol and biodiesel excise tax credit and extension of alcohol fuels income tax credit.
- Sec. 209. Biodiesel income tax credit.
- Sec. 210. Expansion of qualified small-issue bond program; treatment of renewable fuel production facilities.
- Sec. 211. Alternative motor vehicle credit.
- Sec. 212. Credit for engines complying with Tier 2, 3, or 4 emission levels.

### **3 SEC. 101. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

“(A) ETHANOL.—(i) The term ‘cellulosic biomass ethanol’ means ethanol derived from any lignocellulosic or hemicellulosic matter that

1 is available on a renewable or recurring basis,  
2 including—

3 “(I) dedicated energy crops and trees;

4 “(II) wood and wood residues;

5 “(III) plants;

6 “(IV) grasses;

7 “(V) agricultural residues; and

8 “(VI) fibers.

9 “(ii) The term ‘waste derived ethanol’  
10 means ethanol derived from—

11 “(I) animal wastes, including poultry  
12 fats and poultry wastes, and other waste  
13 materials; or

14 “(II) municipal solid waste.

15 “(B) RENEWABLE FUEL.—

16 “(i) IN GENERAL.—The term ‘renew-  
17 able fuel’ means motor vehicle fuel that—

18 “(I)(aa) is produced from grain,  
19 starch, oilseeds, or other biomass; or

20 “(bb) is natural gas produced  
21 from a biogas source, including a  
22 landfill, sewage waste treatment plant,  
23 feedlot, or other place where decaying  
24 organic material is found; and

1                   “(II) is used to replace or reduce  
2                   the quantity of fossil fuel present in a  
3                   fuel mixture used to operate a motor  
4                   vehicle.

5                   “(ii) INCLUSION.—The term ‘renew-  
6                   able fuel’ includes cellulosic biomass eth-  
7                   anol, waste derived ethanol, and biodiesel  
8                   (as defined in section 312(f) of the Energy  
9                   Policy Act of 1992 (42 U.S.C. 13220(f))  
10                  and any blending components derived from  
11                  renewable fuel (provided that only the re-  
12                  newable fuel portion of any such blending  
13                  component shall be considered part of the  
14                  applicable volume under the renewable fuel  
15                  program established by this subsection).

16                  “(C) SMALL REFINERY.—The term ‘small  
17                  refinery’ means a refinery for which average ag-  
18                  gregate daily crude oil throughput for the cal-  
19                  endar year (as determined by dividing the ag-  
20                  gregate throughput for the calendar year by the  
21                  number of days in the calendar year) does not  
22                  exceed 75,000 barrels.

23                  “(2) RENEWABLE FUEL PROGRAM.—

24                         “(A) IN GENERAL.—Not later than 1 year  
25                         after the enactment of this subsection, the Ad-

1            administrator shall promulgate regulations ensur-  
2            ing that motor vehicle fuel sold or dispensed to  
3            consumers in the contiguous United States, on  
4            an annual average basis, contains the applicable  
5            volume of renewable fuel as specified in sub-  
6            paragraph (B). Regardless of the date of pro-  
7            mulgation, such regulations shall contain com-  
8            pliance provisions for refiners, blenders, and  
9            importers, as appropriate, to ensure that the re-  
10          quirements of this section are met, but shall not  
11          restrict where renewable fuel can be used, or  
12          impose any per-gallon obligation for the use of  
13          renewable fuel. If the Administrator does not  
14          promulgate such regulations, the applicable per-  
15          centage referred to in paragraph (4), on a vol-  
16          ume percentage of gasoline basis, shall be 2.2  
17          in 2005.

18                    “(B) APPLICABLE VOLUME.—

19                    “(i) CALENDAR YEARS 2005 THROUGH  
20                    2012.—For the purpose of subparagraph  
21                    (A), the applicable volume for any of cal-  
22                    endar years 2005 through 2012 shall be  
23                    determined in accordance with the fol-  
24                    lowing table:

<b>“Calendar year</b>	<b>Applicable volume of renewable fuel (in billions of gallons)</b>
2005 .....	3.1
2006 .....	3.3
2007 .....	3.5
2008 .....	3.8
2009 .....	4.1
2010 .....	4.4
2011 .....	4.7
2012 .....	5.0.

1                   “(ii) CALENDAR YEAR 2013 AND  
2                   THEREAFTER.—For the purpose of sub-  
3                   paragraph (A), the applicable volume for  
4                   calendar year 2013 and each calendar year  
5                   thereafter shall be equal to the product ob-  
6                   tained by multiplying—

7                   “(I) the number of gallons of  
8                   gasoline that the Administrator esti-  
9                   mates will be sold or introduced into  
10                  commerce in the calendar year; and

11                  “(II) the ratio that—

12                   “(aa) 5.0 billion gallons of  
13                   renewable fuels; bears to

14                   “(bb) the number of gallons  
15                   of gasoline sold or introduced  
16                   into commerce in calendar year  
17                   2012.

18                  “(3) NON-CONTIGUOUS STATE OPT-IN.—Upon  
19                  the petition of a non-contiguous State, the Adminis-  
20                  trator may allow the renewable fuel program estab-

lished by subtitle A of title XV of the Renewable Resources Act of 2004 to apply in such non-contiguous State at the same time or any time after the Administrator promulgates regulations under paragraph (2). The Administrator may promulgate or revise regulations under paragraph (2), establish applicable percentages under paragraph (4), provide for the generation of credits under paragraph (6), and take such other actions as may be necessary to allow for the application of the renewable fuels program in a non-contiguous State.

“(4) APPLICABLE PERCENTAGES.—

“(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

“(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

1 “(i) IN GENERAL.—Not later than  
2 November 30 of each of the calendar years  
3 2004 through 2011, based on the estimate  
4 provided under subparagraph (A), the Ad-  
5 ministrator shall determine and publish in  
6 the Federal Register, with respect to the  
7 following calendar year, the renewable fuel  
8 obligation that ensures that the require-  
9 ments of paragraph (2) are met.

10 “(ii) REQUIRED ELEMENTS.—The re-  
11 newable fuel obligation determined for a  
12 calendar year under clause (i) shall—

13 “(I) be applicable to refiners,  
14 blenders, and importers, as appro-  
15 priate;

16 “(II) be expressed in terms of a  
17 volume percentage of gasoline sold or  
18 introduced into commerce; and

19 “(III) subject to subparagraph  
20 (C)(i), consist of a single applicable  
21 percentage that applies to all cat-  
22 egories of persons specified in sub-  
23 clause (I).



1           “(C) ADJUSTMENTS.—In determining the  
2           applicable percentage for a calendar year, the  
3           Administrator shall make adjustments—

4                   “(i) to prevent the imposition of re-  
5                   dundant obligations to any person specified  
6                   in subparagraph (B)(ii)(I); and

7                   “(ii) to account for the use of renew-  
8                   able fuel during the previous calendar year  
9                   by small refineries that are exempt under  
10                  paragraph (11).

11           “(5) EQUIVALENCY.—For the purpose of para-  
12           graph (2), 1 gallon of either cellulosic biomass eth-  
13           anol or waste derived ethanol—

14                   “(A) shall be considered to be the equiva-  
15                   lent of 1.5 gallon of renewable fuel; or

16                   “(B) if the cellulosic biomass ethanol or  
17                   waste derived ethanol is derived from agricul-  
18                   tural residue or is an agricultural byproduct (as  
19                   that term is used in section 919 of the Renew-  
20                   able Resources Act of 2004), shall be consid-  
21                   ered to be the equivalent of 2.5 gallons of re-  
22                   newable fuel.

23           “(6) CREDIT PROGRAM.—

24                   “(A) IN GENERAL.—The regulations pro-  
25                   mulgated to carry out this subsection shall pro-

1       vide for the generation of an appropriate  
2       amount of credits by any person that refines,  
3       blends, or imports gasoline that contains a  
4       quantity of renewable fuel that is greater than  
5       the quantity required under paragraph (2).  
6       Such regulations shall provide for the genera-  
7       tion of an appropriate amount of credits for  
8       biodiesel fuel. If a small refinery notifies the  
9       Administrator that it waives the exemption pro-  
10      vided paragraph (11), the regulations shall pro-  
11      vide for the generation of credits by the small  
12      refinery beginning in the year following such  
13      notification.

14           “(B) USE OF CREDITS.—A person that  
15      generates credits under subparagraph (A) may  
16      use the credits, or transfer all or a portion of  
17      the credits to another person, for the purpose  
18      of complying with paragraph (2).

19           “(C) LIFE OF CREDITS.—A credit gen-  
20      erated under this paragraph shall be valid to  
21      show compliance—

22                   “(i) in the calendar year in which the  
23                   credit was generated or the next calendar  
24                   year; or

1 “(ii) in the calendar year in which the  
2 credit was generated or next two consecu-  
3 tive calendar years if the Administrator  
4 promulgates regulations under paragraph  
5 (7).

6 “(D) INABILITY TO PURCHASE SUFFICIENT  
7 CREDITS.—The regulations promulgated to  
8 carry out this subsection shall include provi-  
9 sions allowing any person that is unable to gen-  
10 erate or purchase sufficient credits to meet the  
11 requirements under paragraph (2) to carry for-  
12 ward a renewable fuel deficit provided that, in  
13 the calendar year following the year in which  
14 the renewable fuel deficit is created, such per-  
15 son shall achieve compliance with the renewable  
16 fuel requirement under paragraph (2), and shall  
17 generate or purchase additional renewable fuel  
18 credits to offset the renewable fuel deficit of the  
19 previous year.

20 “(7) SEASONAL VARIATIONS IN RENEWABLE  
21 FUEL USE.—

22 “(A) STUDY.—For each of the calendar  
23 years 2005 through 2012, the Administrator of  
24 the Energy Information Administration shall  
25 conduct a study of renewable fuels blending to

1 determine whether there are excessive seasonal  
2 variations in the use of renewable fuels.

3 “(B) REGULATION OF EXCESSIVE SEA-  
4 SONAL VARIATIONS.—If, for any calendar year,  
5 the Administrator of the Energy Information  
6 Administration, based on the study under sub-  
7 paragraph (A), makes the determinations speci-  
8 fied in subparagraph (C), the Administrator  
9 shall promulgate regulations to ensure that 35  
10 percent or more of the quantity of renewable  
11 fuels necessary to meet the requirement of  
12 paragraph (2) is used during each of the peri-  
13 ods specified in subparagraph (D) of each sub-  
14 sequent calendar year.

15 “(C) DETERMINATIONS.—The determina-  
16 tions referred to in subparagraph (B) are  
17 that—

18 “(i) less than 35 percent of the quan-  
19 tity of renewable fuels necessary to meet  
20 the requirement of paragraph (2) has been  
21 used during one of the periods specified in  
22 subparagraph (D) of the calendar year;

23 “(ii) a pattern of excessive seasonal  
24 variation described in clause (i) will con-  
25 tinue in subsequent calendar years; and

1 “(iii) promulgating regulations or  
2 other requirements to impose a 35 percent  
3 or more seasonal use of renewable fuels  
4 will not prevent or interfere with the at-  
5 tainment of national ambient air quality  
6 standards or significantly increase the  
7 price of motor fuels to the consumer.

8 “(D) PERIODS.—The two periods referred  
9 to in this paragraph are—

10 “(i) April through September; and

11 “(ii) January through March and Oc-  
12 tober through December.

13 “(E) EXCLUSIONS.—Renewable fuels  
14 blended or consumed in 2005 in a State which  
15 has received a waiver under section 209(b) shall  
16 not be included in the study in subparagraph  
17 (A).

18 “(8) WAIVERS.—

19 “(A) IN GENERAL.—The Administrator, in  
20 consultation with the Secretary of Agriculture  
21 and the Secretary of Energy, may waive the re-  
22 quirement of paragraph (2) in whole or in part  
23 on petition by one or more States by reducing  
24 the national quantity of renewable fuel required  
25 under this subsection—

1 “(i) based on a determination by the  
2 Administrator, after public notice and op-  
3 portunity for comment, that implementa-  
4 tion of the requirement would severely  
5 harm the economy or environment of a  
6 State, a region, or the United States; or

7 “(ii) based on a determination by the  
8 Administrator, after public notice and op-  
9 portunity for comment, that there is an in-  
10 adequate domestic supply or distribution  
11 capacity to meet the requirement.

12 “(B) PETITIONS FOR WAIVERS.—The Ad-  
13 ministrator, in consultation with the Secretary  
14 of Agriculture and the Secretary of Energy,  
15 shall approve or disapprove a State petition for  
16 a waiver of the requirement of paragraph (2)  
17 within 90 days after the date on which the peti-  
18 tion is received by the Administrator.

19 “(C) TERMINATION OF WAIVERS.—A waiv-  
20 er granted under subparagraph (A) shall termi-  
21 nate after 1 year, but may be renewed by the  
22 Administrator after consultation with the Sec-  
23 retary of Agriculture and the Secretary of En-  
24 ergy.

1           “(9) STUDY AND WAIVER FOR INITIAL YEAR OF  
2       PROGRAM.—Not later than 180 days after the enact-  
3       ment of this subsection, the Secretary of Energy  
4       shall complete for the Administrator a study assess-  
5       ing whether the renewable fuels requirement under  
6       paragraph (2) will likely result in significant adverse  
7       consumer impacts in 2005, on a national, regional,  
8       or State basis. Such study shall evaluate renewable  
9       fuel supplies and prices, blendstock supplies, and  
10      supply and distribution system capabilities. Based  
11      on such study, the Secretary shall make specific rec-  
12      ommendations to the Administrator regarding waiv-  
13      er of the requirements of paragraph (2), in whole or  
14      in part, to avoid any such adverse impacts. Within  
15      270 days after the enactment of this subsection, the  
16      Administrator shall, consistent with the rec-  
17      ommendations of the Secretary, waive, in whole or in  
18      part, the renewable fuels requirement under para-  
19      graph (2) by reducing the national quantity of re-  
20      newable fuel required under this subsection in 2005.  
21      This paragraph shall not be interpreted as limiting  
22      the Administrator’s authority to waive the require-  
23      ments of paragraph (2) in whole, or in part, under  
24      paragraph (8) or paragraph (10), pertaining to  
25      waivers.

1           “(10) ASSESSMENT AND WAIVER.—The Admin-  
2           istrator, in consultation with the Secretary of En-  
3           ergy and the Secretary of Agriculture, shall evaluate  
4           the requirement of paragraph (2) and determine,  
5           prior to January 1, 2007, and prior to January 1  
6           of any subsequent year in which the applicable vol-  
7           ume of renewable fuel is increased under paragraph  
8           (2)(B), whether the requirement of paragraph (2),  
9           including the applicable volume of renewable fuel  
10          contained in paragraph (2)(B) should remain in ef-  
11          fect, in whole or in part, during 2007 or any year  
12          or years subsequent to 2007. In evaluating the re-  
13          quirement of paragraph (2) and in making any de-  
14          termination under this section, the Administrator  
15          shall consider the best available information and  
16          data collected by accepted methods or best available  
17          means regarding—

18                 “(A) the capacity of renewable fuel pro-  
19                 ducers to supply an adequate amount of renew-  
20                 able fuel at competitive prices to fulfill the re-  
21                 quirement of paragraph (2);

22                 “(B) the potential of the requirement of  
23                 paragraph (2) to significantly raise the price of  
24                 gasoline, food (excluding the net price impact  
25                 on the requirement in paragraph (2) on com-



1 commodities used in the production of ethanol), or  
2 heating oil for consumers in any significant  
3 area or region of the country above the price  
4 that would otherwise apply to such commodities  
5 in the absence of such requirement;

6 “(C) the potential of the requirement of  
7 paragraph (2) to interfere with the supply of  
8 fuel in any significant gasoline market or region  
9 of the country, including interference with the  
10 efficient operation of refiners, blenders, import-  
11 ers, wholesale suppliers, and retail vendors of  
12 gasoline, and other motor fuels; and

13 “(D) the potential of the requirement of  
14 paragraph (2) to cause or promote exceedances  
15 of Federal, State, or local air quality standards.

16 If the Administrator determines, by clear and con-  
17 vincing information, after public notice and the op-  
18 portunity for comment, that the requirement of  
19 paragraph (2) would have significant and meaning-  
20 ful adverse impact on the supply of fuel and related  
21 infrastructure or on the economy, public health, or  
22 environment of any significant area or region of the  
23 country, the Administrator may waive, in whole or  
24 in part, the requirement of paragraph (2) in any one  
25 year for which the determination is made for that

1 area or region of the country, except that any such  
2 waiver shall not have the effect of reducing the ap-  
3 plicable volume of renewable fuel specified in para-  
4 graph (2)(B) with respect to any year for which the  
5 determination is made. In determining economic im-  
6 pact under this paragraph, the Administrator shall  
7 not consider the reduced revenues available from the  
8 Highway Trust Fund (section 9503 of the Internal  
9 Revenue Code of 1986) as a result of the use of eth-  
10 anol.

11 “(11) SMALL REFINERIES.—

12 “(A) IN GENERAL.—The requirement of  
13 paragraph (2) shall not apply to small refineries  
14 until the first calendar year beginning more  
15 than 5 years after the first year set forth in the  
16 table in paragraph (2)(B)(i). Not later than De-  
17 cember 31, 2007, the Secretary of Energy shall  
18 complete for the Administrator a study to de-  
19 termine whether the requirement of paragraph  
20 (2) would impose a disproportionate economic  
21 hardship on small refineries. For any small re-  
22 finery that the Secretary of Energy determines  
23 would experience a disproportionate economic  
24 hardship, the Administrator shall extend the

1 small refinery exemption for such small refinery  
2 for no less than two additional years.

3 “(B) ECONOMIC HARDSHIP.—

4 “(i) EXTENSION OF EXEMPTION.—A  
5 small refinery may at any time petition the  
6 Administrator for an extension of the ex-  
7 emption from the requirement of para-  
8 graph (2) for the reason of dispropor-  
9 tionate economic hardship. In evaluating a  
10 hardship petition, the Administrator, in  
11 consultation with the Secretary of Energy,  
12 shall consider the findings of the study in  
13 addition to other economic factors.

14 “(ii) DEADLINE FOR ACTION ON PETI-  
15 TIONS.—The Administrator shall act on  
16 any petition submitted by a small refinery  
17 for a hardship exemption not later than 90  
18 days after the receipt of the petition.

19 “(C) CREDIT PROGRAM.—If a small refin-  
20 ery notifies the Administrator that it waives the  
21 exemption provided by this Act, the regulations  
22 shall provide for the generation of credits by  
23 the small refinery beginning in the year fol-  
24 lowing such notification.

1           “(D) OPT-IN FOR SMALL REFINERS.—A  
2           small refinery shall be subject to the require-  
3           ments of this section if it notifies the Adminis-  
4           trator that it waives the exemption under sub-  
5           paragraph (A).

6           “(12) ETHANOL MARKET CONCENTRATION  
7           ANALYSIS.—

8           “(A) ANALYSIS.—

9           “(i) IN GENERAL.—Not later than  
10           180 days after the date of enactment of  
11           this subsection, and annually thereafter,  
12           the Federal Trade Commission shall per-  
13           form a market concentration analysis of  
14           the ethanol production industry using the  
15           Herfindahl-Hirschman Index to determine  
16           whether there is sufficient competition  
17           among industry participants to avoid price  
18           setting and other anticompetitive behavior.

19           “(ii) SCORING.—For the purpose of  
20           scoring under clause (i) using the  
21           Herfindahl-Hirschman Index, all mar-  
22           keting arrangements among industry par-  
23           ticipants shall be considered.

24           “(B) REPORT.—Not later than December  
25           1, 2004, and annually thereafter, the Federal

1 Trade Commission shall submit to Congress  
2 and the Administrator a report on the results  
3 of the market concentration analysis performed  
4 under subparagraph (A)(i).”.

5 (b) PENALTIES AND ENFORCEMENT.—Section  
6 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is  
7 amended as follows:

8 (1) In paragraph (1)—

9 (A) in the first sentence, by striking “or  
10 (n)” each place it appears and inserting “(n),  
11 or (o)”; and

12 (B) in the second sentence, by striking “or  
13 (m)” and inserting “(m), or (o)”.

14 (2) In the first sentence of paragraph (2), by  
15 striking “and (n)” each place it appears and insert-  
16 ing “(n), and (o)”.

17 (c) SURVEY OF RENEWABLE FUEL MARKET.—

18 (1) SURVEY AND REPORT.—Not later than De-  
19 cember 1, 2006, and annually thereafter, the Admin-  
20 istrator of the Environmental Protection Agency (in  
21 consultation with the Secretary of Energy acting  
22 through the Administrator of the Energy Informa-  
23 tion Administration) shall—

24 (A) conduct, with respect to each conven-  
25 tional gasoline use area and each reformulated

gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the “Administrator”) may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator, to avoid duplicative requirements, shall rely, to the extent practicable, on existing reporting and recordkeeping requirements and other information available to the

1 Administrator including gasoline distribution pat-  
2 terns that include multistate use areas.

3 (3) APPLICABLE LAW.—Activities carried out  
4 under this subsection shall be conducted in a man-  
5 ner designed to protect confidentiality of individual  
6 responses.

7 **SEC. 102. PROHIBITION ON USE OF MTBE AS A FUEL ADDI-**  
8 **TIVE.**

9 Section 211(c) of the Clean Air Act (42 U.S.C.  
10 7545(c)) is amended by adding the following at the end  
11 of paragraph (1): “Effective on the date of the enactment  
12 of this sentence, the use of methyl tertiary butyl ether  
13 (MTBE) as a fuel additive is prohibited.”. The Adminis-  
14 trator of the Environmental Protection Agency shall  
15 amend the regulations under section 211(c) of the Clean  
16 Air Act (42 U.S.C. 7545(c)) as promptly as practicable  
17 after the enactment of this Act to conform to the amend-  
18 ment made by this section.

19 **SEC. 103. FEDERAL AGENCY FLEET VEHICLES.**

20 Section 248(f) of the Clean Air Act (42 U.S.C.  
21 7588(f)) is amended by inserting the following before the  
22 period at the end thereof: “, all such vehicles shall be clean  
23 fuel vehicles certified under this part capable of using eth-  
24 anol as fuel and shall use ethanol wherever economically  
25 feasible, as determined by the Administrator, and all such

1 agencies shall use biodiesel fuel to operate any Federal  
 2 vehicle that uses diesel fuel, unless the cost of doing so  
 3 is prohibitive”.

## 4 **TITLE II—TAX INCENTIVES**

### 5 **SEC. 201. EXTENSION AND EXPANSION OF CREDIT FOR** 6 **ELECTRICITY PRODUCED FROM CERTAIN RE-** 7 **NEWABLE RESOURCES.**

8 (a) EXPANSION OF QUALIFIED ENERGY RE-  
 9 SOURCES.—Subsection (c) of section 45 of the Internal  
 10 Revenue Code of 1986 (relating to electricity produced  
 11 from certain renewable resources) is amended to read as  
 12 follows:

13 “(c) QUALIFIED ENERGY RESOURCES.—For pur-  
 14 poses of this section—

15 “(1) IN GENERAL.—The term ‘qualified energy  
 16 resources’ means—

17 “(A) wind,

18 “(B) closed-loop biomass, and

19 “(C) open-loop biomass.

20 “(2) CLOSED-LOOP BIOMASS.—The term  
 21 ‘closed-loop biomass’ means any organic material  
 22 from a plant which is planted exclusively for pur-  
 23 poses of being used at a qualified facility to produce  
 24 electricity.

25 “(3) OPEN-LOOP BIOMASS.—



1                   “(A) IN GENERAL.—The term ‘open-loop  
2 biomass’ means—

3                   “(i) any agricultural livestock waste  
4 nutrients, or

5                   “(ii) any solid, nonhazardous, cel-  
6 lulosic waste material which is segregated  
7 from other waste materials and which is  
8 derived from—

9                   “(I) any of the following forest-  
10 related resources: mill and harvesting  
11 residues, precommercial thinnings,  
12 slash, and brush; but not including  
13 spent chemicals from pulp manufac-  
14 turing,

15                   “(II) solid wood waste materials,  
16 including waste pallets, crates,  
17 dunnage, manufacturing and con-  
18 struction wood wastes (other than  
19 pressure-treated, chemically-treated,  
20 or painted wood wastes), and land-  
21 scape or right-of-way tree trimmings,  
22 but not including municipal solid  
23 waste, gas derived from the bio-  
24 degradation of solid waste, or paper  
25 which is commonly recycled, or

1 “(III) agriculture sources, includ-  
 2 ing orchard tree crops, vineyard,  
 3 grain, legumes, sugar, and other crop  
 4 by-products or residues.

5 “(B) AGRICULTURAL LIVESTOCK WASTE  
 6 NUTRIENTS.—

7 “(i) IN GENERAL.—The term ‘agricul-  
 8 tural livestock waste nutrients’ means agri-  
 9 cultural livestock manure and litter, includ-  
 10 ing wood shavings, straw, rice hulls, and  
 11 other bedding material for the disposition  
 12 of manure.

13 “(ii) AGRICULTURAL LIVESTOCK.—  
 14 The term ‘agricultural livestock’ includes  
 15 bovine, swine, poultry, and sheep.

16 “(C) EXCEPTIONS.—The term ‘open-loop  
 17 biomass’ does not include—

18 “(i) closed-loop biomass, or

19 “(ii) biomass burned in conjunction  
 20 with fossil fuel (cofiring) beyond such fossil  
 21 fuel required for startup and flame sta-  
 22 bilization.”.

23 (b) EXTENSION AND EXPANSION OF QUALIFIED FA-  
 24 CILITIES.—Section 45 of such Code is amended by redes-

1 ignating subsection (d) as subsection (e) and by inserting  
 2 after subsection (c) the following new subsection:

3 “(d) QUALIFIED FACILITIES.—For purposes of this  
 4 section—

5 “(1) WIND FACILITY.—In the case of a facility  
 6 using wind to produce electricity, the term ‘qualified  
 7 facility’ means any facility owned by the taxpayer  
 8 which is originally placed in service after December  
 9 31, 1993.

10 “(2) CLOSED-LOOP BIOMASS FACILITY.—

11 “(A) IN GENERAL.—In the case of a facil-  
 12 ity using closed-loop biomass to produce elec-  
 13 tricity, the term ‘qualified facility’ means any  
 14 facility—

15 “(i) owned by the taxpayer which is  
 16 originally placed in service after December  
 17 31, 1992, or

18 “(ii) owned by the taxpayer which is  
 19 originally placed in service and modified to  
 20 use closed-loop biomass to co-fire with coal,  
 21 with other biomass, or with both, but only  
 22 if the modification is approved under the  
 23 Biomass Power for Rural Development  
 24 Programs or is part of a pilot project of

1 the Commodity Credit Corporation as de-  
2 scribed in 65 Fed. Reg. 63052.

3 “(B) SPECIAL RULES.—In the case of a  
4 qualified facility described in subparagraph  
5 (A)(ii)—

6 “(i) the 10-year period referred to in  
7 subsection (a) shall be treated as beginning  
8 no earlier than January 1, 2005,

9 “(ii) the amount of the credit deter-  
10 mined under subsection (a) with respect to  
11 the facility shall be an amount equal to the  
12 amount determined without regard to this  
13 clause multiplied by the ratio of the ther-  
14 mal content of the closed-loop biomass  
15 used in such facility to the thermal content  
16 of all fuels used in such facility, and

17 “(iii) if the owner of such facility is  
18 not the producer of the electricity, the per-  
19 son eligible for the credit allowable under  
20 subsection (a) shall be the lessee or the op-  
21 erator of such facility.

22 “(3) OPEN-LOOP BIOMASS FACILITY.—

23 “(A) IN GENERAL.—In the case of a facil-  
24 ity using open-loop biomass to produce elec-  
25 tricity for grid sale in excess of its internal re-

1           quirements, the term ‘qualified facility’ means  
2           any facility owned by the taxpayer which—

3                   “(i) in the case of a facility using ag-  
4                   ricultural livestock waste nutrients, is  
5                   originally placed in service after December  
6                   31, 2004, and

7                   “(ii) in the case of any other facility,  
8                   is originally placed in service before Janu-  
9                   ary 1, 2005.

10           “(B) SPECIAL RULES FOR PREEFFECTIVE  
11           DATE FACILITIES.—In the case of any facility  
12           described in subparagraph (A)(ii) which is  
13           placed in service before January 1, 2005—

14                   “(i) subsection (a)(1) shall be applied  
15                   by substituting ‘1.2 cents’ for ‘1.5 cents’,  
16                   and

17                   “(ii) the 5-year period beginning on  
18                   January 1, 2005, shall be substituted for  
19                   the 10-year period in subsection  
20                   (a)(2)(A)(ii).

21           “(C) CREDIT ELIGIBILITY.—In the case of  
22           any facility described in subparagraph (A), if  
23           the owner of such facility is not the producer of  
24           the electricity, the person eligible for the credit

1           allowable under subsection (a) shall be the les-  
2           see or the operator of such facility.”.

3           (c) CREDIT RATE FOR ELECTRICITY PRODUCED  
4 FROM NEW FACILITIES.—

5           (1) IN GENERAL.—Section 45(a) of such Code  
6           is amended by adding at the end the following new  
7           flush sentence: “In the case of electricity produced  
8           after December 31, 2004, at any qualified facility  
9           originally placed in service after such date, para-  
10          graph (1) shall be applied by substituting ‘1.8 cents’  
11          for ‘1.5 cents’.”.

12          (2) NEW RATE NOT SUBJECT TO INFLATION  
13 ADJUSTMENT.—Section 45(b)(2) of such Code (re-  
14          lating to credit and phaseout adjustment based on  
15          inflation) is amended by adding at the end the fol-  
16          lowing new sentence: “This paragraph shall not  
17          apply to any amount which is substituted for the 1.5  
18          cent amount in subsection (a) by reason of any pro-  
19          vision of this section.”.

20          (d) EFFECTIVE DATES.—

21          (1) IN GENERAL.—Except as otherwise pro-  
22          vided in this subsection, the amendments made by  
23          this section shall apply to electricity produced and  
24          sold after December 31, 2004, in taxable years end-  
25          ing after such date.

1           (2) CERTAIN BIOMASS FACILITIES.—With re-  
 2       spect to any facility described in section  
 3       45(d)(3)(A)(ii) of the Internal Revenue Code of  
 4       1986, as added by subsection (b)(1), which is placed  
 5       in service before the date of the enactment of this  
 6       Act, the amendments made by this section shall  
 7       apply to electricity produced and sold after Decem-  
 8       ber 31, 2004, in taxable years ending after such  
 9       date.

10          (3) CREDIT RATE FOR NEW FACILITIES.—The  
 11       amendments made by subsection (c) shall apply to  
 12       electricity produced and sold after December 31,  
 13       2004, in taxable years ending after such date.

14          (4) NONAPPLICATION OF AMENDMENTS TO  
 15       PREEFFECTIVE DATE POULTRY WASTE FACILI-  
 16       TIES.—The amendments made by this section shall  
 17       not apply with respect to any poultry waste facility  
 18       (within the meaning of section 45(c)(3)(C), as in ef-  
 19       fect on December 31, 2004) placed in service on or  
 20       before such date.

21 **SEC. 202. SMALL ETHANOL PRODUCER CREDIT.**

22       (a) ALLOCATION OF ALCOHOL FUELS CREDIT TO  
 23       PATRONS OF A COOPERATIVE.—Section 40(g) of the In-  
 24       ternal Revenue Code of 1986 (relating to definitions and  
 25       special rules for eligible small ethanol producer credit) is

1 amended by adding at the end the following new para-  
 2 graph:

3 “(6) ALLOCATION OF SMALL ETHANOL PRO-  
 4 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

5 “(A) ELECTION TO ALLOCATE.—

6 “(i) IN GENERAL.—In the case of a  
 7 cooperative organization described in sec-  
 8 tion 1381(a), any portion of the credit de-  
 9 termined under subsection (a)(3) for the  
 10 taxable year may, at the election of the or-  
 11 ganization, be apportioned pro rata among  
 12 patrons of the organization on the basis of  
 13 the quantity or value of business done with  
 14 or for such patrons for the taxable year.

15 “(ii) FORM AND EFFECT OF ELEC-  
 16 TION.—An election under clause (i) for any  
 17 taxable year shall be made on a timely  
 18 filed return for such year. Such election,  
 19 once made, shall be irrevocable for such  
 20 taxable year.

21 “(B) TREATMENT OF ORGANIZATIONS AND  
 22 PATRONS.—The amount of the credit appor-  
 23 tioned to patrons under subparagraph (A)—

24 “(i) shall not be included in the  
 25 amount determined under subsection (a)



1 with respect to the organization for the  
2 taxable year, and

3 “(ii) shall be included in the amount  
4 determined under subsection (a) for the  
5 taxable year of each patron for which the  
6 patronage dividends for the taxable year  
7 described in subparagraph (A) are included  
8 in gross income.

9 “(C) SPECIAL RULES FOR DECREASE IN  
10 CREDITS FOR TAXABLE YEAR.—If the amount  
11 of the credit of a cooperative organization de-  
12 termined under subsection (a)(3) for a taxable  
13 year is less than the amount of such credit  
14 shown on the return of the cooperative organi-  
15 zation for such year, an amount equal to the  
16 excess of—

17 “(i) such reduction, over

18 “(ii) the amount not apportioned to  
19 such patrons under subparagraph (A) for  
20 the taxable year,

21 shall be treated as an increase in tax imposed  
22 by this chapter on the organization. Such in-  
23 crease shall not be treated as tax imposed by  
24 this chapter for purposes of determining the

1 amount of any credit under this chapter or for  
 2 purposes of section 55.”.

3 (b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER  
 4 CREDIT.—

5 (1) DEFINITION OF SMALL ETHANOL PRO-  
 6 DUCER.—Section 40(g) of such Code (relating to  
 7 definitions and special rules for eligible small ethanol  
 8 producer credit) is amended by striking  
 9 “30,000,000” each place it appears and inserting  
 10 “60,000,000”.

11 (2) SMALL ETHANOL PRODUCER CREDIT NOT A  
 12 PASSIVE ACTIVITY CREDIT.—Clause (i) of section  
 13 469(d)(2)(A) of such Code is amended by striking  
 14 “subpart D” and inserting “subpart D, other than  
 15 section 40(a)(3),”.

16 (3) SMALL ETHANOL PRODUCER CREDIT NOT  
 17 ADDED BACK TO INCOME UNDER SECTION 87.—Sec-  
 18 tion 87 of such Code (relating to income inclusion  
 19 of alcohol fuel credit) is amended to read as follows:  
 20 **“SEC. 87. ALCOHOL FUEL CREDIT.**

21 “Gross income includes an amount equal to the sum  
 22 of—

23 “(1) the amount of the alcohol mixture credit  
 24 determined with respect to the taxpayer for the tax-  
 25 able year under section 40(a)(1), and

1 “(2) the alcohol credit determined with respect  
 2 to the taxpayer for the taxable year under section  
 3 40(a)(2).”.

4 (c) CONFORMING AMENDMENT.—Section 1388 of  
 5 such Code (relating to definitions and special rules for co-  
 6 operative organizations) is amended by adding at the end  
 7 the following new subsection:

8 “(1) CROSS REFERENCE.—For provisions relating to  
 9 the apportionment of the alcohol fuels credit between coop-  
 10 erative organizations and their patrons, see section  
 11 40(g)(6).”.

12 (d) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to taxable years ending after the  
 14 date of the enactment of this Act.

15 **SEC. 203. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-  
 17 chapter A of chapter 1 (relating to business-related cred-  
 18 its) is amended by adding after section 45F the following  
 19 new section:

20 **“SEC. 45G. ENERGY EFFICIENT APPLIANCE CREDIT.**

21 “(a) ALLOWANCE OF CREDIT.—

22 “(1) IN GENERAL.—For purposes of section 38,  
 23 the energy efficient appliance credit determined  
 24 under this section for the taxable year is an amount  
 25 equal to the sum of the amounts determined under

1 paragraph (2) for qualified energy efficient appli-  
 2 ances produced by the taxpayer during the calendar  
 3 year ending with or within the taxable year.

4 “(2) AMOUNT.—The amount determined under  
 5 this paragraph for any category described in sub-  
 6 section (b)(2)(B) shall be the product of the applica-  
 7 ble amount for appliances in the category and the el-  
 8 igible production for the category.

9 “(b) APPLICABLE AMOUNT; ELIGIBLE PRODUC-  
 10 TION.—For purposes of subsection (a)—

11 “(1) APPLICABLE AMOUNT.—The applicable  
 12 amount is—

13 “(A) \$50, in the case of—

14 “(i) a clothes washer which is manu-  
 15 factured with at least a 1.42 MEF, or

16 “(ii) a refrigerator which consumes at  
 17 least 10 percent less kilowatt hours per  
 18 year than the energy conservation stand-  
 19 ards for refrigerators promulgated by the  
 20 Department of Energy and effective on  
 21 July 1, 2001,

22 “(B) \$100, in the case of—

23 “(i) a clothes washer which is manu-  
 24 factured with at least a 1.50 MEF, or

1 “(ii) a refrigerator which consumes at  
 2 least 15 percent (20 percent in the case of  
 3 a refrigerator manufactured after 2006)  
 4 less kilowatt hours per year than such en-  
 5 ergy conservation standards, and

6 “(C) \$150, in the case of a refrigerator  
 7 manufactured before 2007 which consumes at  
 8 least 20 percent less kilowatt hours per year  
 9 than such energy conservation standards.

10 “(2) ELIGIBLE PRODUCTION.—

11 “(A) IN GENERAL.—The eligible produc-  
 12 tion of each category of qualified energy effi-  
 13 cient appliances is the excess of—

14 “(i) the number of appliances in such  
 15 category which are produced by the tax-  
 16 payer during such calendar year, over

17 “(ii) the average number of appliances  
 18 in such category which were produced by  
 19 the taxpayer during calendar years 2001,  
 20 2002, and 2003.

21 “(B) CATEGORIES.—For purposes of sub-  
 22 paragraph (A), the categories are—

23 “(i) clothes washers described in para-  
 24 graph (1)(A)(i),

1 “(ii) clothes washers described in  
2 paragraph (1)(B)(i),

3 “(iii) refrigerators described in para-  
4 graph (1)(A)(ii),

5 “(iv) refrigerators described in para-  
6 graph (1)(B)(ii), and

7 “(v) refrigerators described in para-  
8 graph (1)(C).

9 “(c) LIMITATION ON MAXIMUM CREDIT.—

10 “(1) IN GENERAL.—The amount of credit al-  
11 lowed under subsection (a) with respect to a tax-  
12 payer for all taxable years shall not exceed  
13 \$60,000,000, of which not more than \$30,000,000  
14 may be allowed with respect to the credit determined  
15 by using the applicable amount under subsection  
16 (b)(1)(A).

17 “(2) LIMITATION BASED ON GROSS RE-  
18 CEIPTS.—The credit allowed under subsection (a)  
19 with respect to a taxpayer for the taxable year shall  
20 not exceed an amount equal to 2 percent of the aver-  
21 age annual gross receipts of the taxpayer for the 3  
22 taxable years preceding the taxable year in which  
23 the credit is determined.

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

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

5           “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
6 ANCE.—The term ‘qualified energy efficient appli-  
7 ance’ means—

8           “(A) a clothes washer described in sub-  
9 paragraph (A)(i) or (B)(i) of subsection (b)(1),  
10 or

11           “(B) a refrigerator described in subpara-  
12 graph (A)(ii), (B)(ii), or (C) of subsection  
13 (b)(1).

14           “(2) CLOTHES WASHER.—The term ‘clothes  
15 washer’ means a residential clothes washer, includ-  
16 ing a residential style coin operated washer.

17           “(3) REFRIGERATOR.—The term ‘refrigerator’  
18 means an automatic defrost refrigerator-freezer  
19 which has an internal volume of at least 16.5 cubic  
20 feet.

21           “(4) MEF.—The term ‘MEF’ means Modified  
22 Energy Factor (as determined by the Secretary of  
23 Energy).

24           “(e) SPECIAL RULES.—

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

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

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

13          (b) CREDIT MADE PART OF GENERAL BUSINESS  
14          CREDIT.—Section 38(b) of such Code (relating to current  
15          year business credit) is amended by striking “plus” at the  
16          end of paragraph (14), by striking the period at the end  
17          of paragraph (15) and inserting “, plus”, and by adding  
18          at the end the following new paragraph:

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

21          (c) CLERICAL AMENDMENT.—The table of sections  
22          for subpart D of part IV of subchapter A of chapter 1  
23          of such Code is amended by adding at the end the fol-  
24          lowing new item:

“45G. Energy efficient appliance credit.”.



1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to appliances produced after De-  
 3 cember 31, 2004, in taxable years ending after such date.

4 **SEC. 204. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES**  
 5 **ON RAILROADS AND INLAND WATERWAY**  
 6 **TRANSPORTATION WHICH REMAIN IN GEN-**  
 7 **ERAL FUND.**

8 (a) TAXES ON TRAINS.—

9 (1) IN GENERAL.—Subparagraph (A) of section  
 10 4041(a)(1) of the Internal Revenue Code of 1986 is  
 11 amended by striking “or a diesel-powered train”  
 12 each place it appears and by striking “or train”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Subparagraph (C) of section  
 15 4041(a)(1) of such Code is amended by striking  
 16 clause (ii) and by redesignating clause (iii) as  
 17 clause (ii).

18 (B) Subparagraph (C) of section  
 19 4041(b)(1) of such Code is amended by striking  
 20 all that follows “section 6421(e)(2)” and insert-  
 21 ing a period.

22 (C) Subsection (d) of section 4041 of such  
 23 Code is amended by redesignating paragraph  
 24 (3) as paragraph (4) and by inserting after  
 25 paragraph (2) the following new paragraph:

1           “(3) DIESEL FUEL USED IN TRAINS.—There is  
 2           hereby imposed a tax of 0.1 cent per gallon on any  
 3           liquid other than gasoline (as defined in section  
 4           4083)—

5                   “(A) sold by any person to an owner, les-  
 6                   see, or other operator of a diesel-powered train  
 7                   for use as a fuel in such train, or

8                   “(B) used by any person as a fuel in a die-  
 9                   sel-powered train unless there was a taxable  
 10                  sale of such fuel under subparagraph (A).

11          No tax shall be imposed by this paragraph on the  
 12          sale or use of any liquid if tax was imposed on such  
 13          liquid under section 4081.”

14                  (D) Subsection (e) of section 4082 of such  
 15          Code is amended by striking “section  
 16          4041(a)(1)” and inserting “subsections (d)(3)  
 17          and (a)(1) of section 4041, respectively”.

18                  (E) Paragraph (3) of section 4083(a) of  
 19          such Code is amended by striking “or a diesel-  
 20          powered train”.

21                  (F) Paragraph (3) of section 6421(f) of  
 22          such Code is amended to read as follows:

23                  “(3) GASOLINE USED IN TRAINS.—In the case  
 24          of gasoline used as a fuel in a train, this section  
 25          shall not apply with respect to the Leaking Under-

1 ground Storage Tank Trust Fund financing rate  
2 under section 4081.”

3 (G) Paragraph (3) of section 6427(l) of  
4 such Code is amended to read as follows:

5 “(3) REFUND OF CERTAIN TAXES ON FUEL  
6 USED IN DIESEL-POWERED TRAINS.—For purposes  
7 of this subsection, the term ‘nontaxable use’ includes  
8 fuel used in a diesel-powered train. The preceding  
9 sentence shall not apply to the tax imposed by sec-  
10 tion 4041(d) and the Leaking Underground Storage  
11 Tank Trust Fund financing rate under section 4081  
12 except with respect to fuel sold for exclusive use by  
13 a State or any political subdivision thereof.”

14 (b) FUEL USED ON INLAND WATERWAYS.—

15 (1) IN GENERAL.—Paragraph (1) of section  
16 4042(b) of such Code is amended by adding “and”  
17 at the end of subparagraph (A), by striking “, and”  
18 at the end of subparagraph (B) and inserting a pe-  
19 riod, and by striking subparagraph (C).

20 (2) CONFORMING AMENDMENT.—Paragraph (2)  
21 of section 4042(b) of such Code is amended by strik-  
22 ing subparagraph (C).

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall take effect on the date of the enactment  
25 of this Act.

1 **SEC. 205. CREDIT FOR CONSTRUCTION OF NEW ENERGY EF-**  
 2 **FICIENT HOME.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
 4 chapter A of chapter 1 (relating to business related cred-  
 5 its) is amended by adding after section 45G the following  
 6 new section:

7 **“SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.**

8 “(a) IN GENERAL.—For purposes of section 38, in  
 9 the case of an eligible contractor, the credit determined  
 10 under this section for the taxable year is an amount equal  
 11 to the aggregate adjusted bases of all energy efficient  
 12 property installed in a qualifying new home during con-  
 13 struction of such home.

14 “(b) LIMITATIONS.—

15 “(1) MAXIMUM CREDIT.—

16 “(A) IN GENERAL.—The credit allowed by  
 17 this section with respect to a qualifying new  
 18 home shall not exceed—

19 “(i) in the case of a 30-percent home,  
 20 \$1,000, and

21 “(ii) in the case of a 50-percent home,  
 22 \$2,000.

23 “(B) 30- OR 50-PERCENT HOME.—For pur-  
 24 poses of subparagraph (A)—

25 “(i) 30-PERCENT HOME.—The term  
 26 ‘30-percent home’ means—

1                   “(I) a qualifying new home which  
2                   is certified to have a projected level of  
3                   annual heating and cooling energy  
4                   consumption, measured in terms of  
5                   average annual energy cost to the  
6                   homeowner, which is at least 30 per-  
7                   cent less than the annual level of  
8                   heating and cooling energy consump-  
9                   tion of a qualifying new home con-  
10                  structed in accordance with the latest  
11                  standards of chapter 4 of the Inter-  
12                  national Energy Conservation Code  
13                  approved by the Department of En-  
14                  ergy before the construction of such  
15                  qualifying new home and any applica-  
16                  ble Federal minimum efficiency stand-  
17                  ards for equipment, or

18                  “(II) in the case of a qualifying  
19                  new home which is a manufactured  
20                  home, a home which meets the appli-  
21                  cable standards required by the Ad-  
22                  ministrator of the Environmental Pro-  
23                  tection Agency under the Energy Star  
24                  Labeled Homes program.

1                   “(ii) 50-PERCENT HOME.—The term  
 2                   ‘50-percent home’ means a qualifying new  
 3                   home which would be described in clause  
 4                   (i)(I) if 50 percent were substituted for 30  
 5                   percent.

6                   “(C) PRIOR CREDIT AMOUNTS ON SAME  
 7                   HOME TAKEN INTO ACCOUNT.—The amount of  
 8                   the credit otherwise allowable for the taxable  
 9                   year with respect to a qualifying new home  
 10                  under clause (i) or (ii) of subparagraph (A)  
 11                  shall be reduced by the sum of the credits al-  
 12                  lowed under subsection (a) to any taxpayer with  
 13                  respect to the home for all preceding taxable  
 14                  years.

15                  “(2) COORDINATION WITH CERTAIN CREDITS.—  
 16                  For purposes of this 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 the rehabilitation credit (as deter-  
 21                   mined under section 47(a)) or to the energy  
 22                   credit (as determined under section 48(a)), and

23                   “(B) expenditures taken into account  
 24                   under section 47, or 48(a) shall not be taken  
 25                   into account under this section.

1           “(3) PROVIDER LIMITATION.—Any eligible con-  
 2           tractor who directly or indirectly provides the guar-  
 3           antee of energy savings under a guarantee-based  
 4           method of certification described in subsection  
 5           (d)(1)(D) shall not be eligible to receive the credit  
 6           allowed by this section.

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

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

10                         “(A) the person who constructed the quali-  
 11                         fying new home, or

12                         “(B) in the case of a qualifying new home  
 13                         which is a manufactured home, the manufac-  
 14                         tured home producer of such home.

15           If more than 1 person is described in subparagraph  
 16           (A) or (B) with respect to any qualifying new home,  
 17           such term means the person designated as such by  
 18           the owner of such home.

19                 “(2) ENERGY EFFICIENT PROPERTY.—The  
 20           term ‘energy efficient property’ means any energy  
 21           efficient building envelope component, and any en-  
 22           ergy efficient heating or cooling equipment or system  
 23           which can, individually or in combination with other  
 24           components, meet the requirements of this section.

25                 “(3) QUALIFYING NEW HOME.—

1           “(A) IN GENERAL.—The term ‘qualifying  
2           new home’ means a dwelling—

3                   “(i) located in the United States,

4                   “(ii) the construction of which is sub-  
5                   stantially completed after December 31,  
6                   2004, and

7                   “(iii) the first use of which after con-  
8                   struction is as a principal residence (within  
9                   the meaning of section 121).

10           “(B) MANUFACTURED HOME INCLUDED.—

11           The term ‘qualifying new home’ includes a  
12           manufactured home conforming to Federal  
13           Manufactured Home Construction and Safety  
14           Standards (24 C.F.R. 3280).

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

17           “(5) BUILDING ENVELOPE COMPONENT.—The  
18           term ‘building envelope component’ means—

19                   “(A) any insulation material or system  
20                   which is specifically and primarily designed to  
21                   reduce the heat loss or gain of a qualifying new  
22                   home when installed in or on such home,

23                   “(B) exterior windows (including sky-  
24                   lights), and

25                   “(C) exterior doors.



1 “(d) CERTIFICATION.—

2 “(1) METHOD OF CERTIFICATION.—

3 “(A) IN GENERAL.—A certification de-  
4 scribed in subsection (b)(1)(B) shall be deter-  
5 mined either by a component-based method, a  
6 performance-based method, or a guarantee-  
7 based method, or, in the case of a qualifying  
8 new home which is a manufactured home, by a  
9 method prescribed by the Administrator of the  
10 Environmental Protection Agency under the  
11 Energy Star Labeled Homes program.

12 “(B) COMPONENT-BASED METHOD.—A  
13 component-based method is a method which  
14 uses the applicable technical energy efficiency  
15 specifications or ratings (including product la-  
16 beling requirements) for the energy efficient  
17 building envelope component or energy efficient  
18 heating or cooling equipment. The Secretary  
19 shall, in consultation with the Administrator of  
20 the Environmental Protection Agency, develop  
21 prescriptive component-based packages which  
22 are equivalent in energy performance to prop-  
23 erties which qualify under subparagraph (C).

24 “(C) PERFORMANCE-BASED METHOD.—

1           “(i) IN GENERAL.—A performance-  
2           based method is a method which calculates  
3           projected energy usage and cost reductions  
4           in the qualifying new home in relation to  
5           a new home—

6                   “(I) heated by the same fuel  
7                   type, and

8                   “(II) constructed in accordance  
9                   with the latest standards of chapter 4  
10                  of the International Energy Conserva-  
11                  tion Code approved by the Depart-  
12                  ment of Energy before the construc-  
13                  tion of such qualifying new home and  
14                  any applicable Federal minimum effi-  
15                  ciency standards for equipment.

16           “(ii) COMPUTER SOFTWARE.—Com-  
17           puter software shall be used in support of  
18           a performance-based method certification  
19           under clause (i). Such software shall meet  
20           procedures and methods for calculating en-  
21           ergy and cost savings in regulations pro-  
22           mulgated by the Secretary of Energy.

23           “(D) GUARANTEE-BASED METHOD.—

24                   “(i) IN GENERAL.—A guarantee-based  
25                   method is a method which guarantees in

1 writing to the homeowner energy savings  
2 of either 30 percent or 50 percent over the  
3 2000 International Energy Conservation  
4 Code for heating and cooling costs. The  
5 guarantee shall be provided for a minimum  
6 of 2 years and shall fully reimburse the  
7 homeowner any heating and cooling costs  
8 in excess of the guaranteed amount.

9 “(ii) COMPUTER SOFTWARE.—Com-  
10 puter software shall be selected by the pro-  
11 vider to support the guarantee-based meth-  
12 od certification under clause (i). Such soft-  
13 ware shall meet procedures and methods  
14 for calculating energy and cost savings in  
15 regulations promulgated by the Secretary  
16 of Energy.

17 “(2) PROVIDER.—A certification described in  
18 subsection (b)(1)(B) shall be provided by—

19 “(A) in the case of a component-based  
20 method, a local building regulatory authority, a  
21 utility, or a home energy rating organization,

22 “(B) in the case of a performance-based  
23 method or a guarantee-based method, an indi-  
24 vidual recognized by an organization designated  
25 by the Secretary for such purposes, or

1           “(C) in the case of a qualifying new home  
2           which is a manufactured home, a manufactured  
3           home primary inspection agency.

4           “(3) FORM.—

5           “(A) IN GENERAL.—A certification de-  
6           scribed in subsection (b)(1)(B) shall be made in  
7           writing in a manner which specifies in readily  
8           verifiable fashion the energy efficient building  
9           envelope components and energy efficient heat-  
10          ing or cooling equipment installed and their re-  
11          spective rated energy efficiency performance,  
12          and

13           “(i) in the case of a performance-  
14          based method, accompanied by a written  
15          analysis documenting the proper applica-  
16          tion of a permissible energy performance  
17          calculation method to the specific cir-  
18          cumstances of such qualifying new home,  
19          and

20           “(ii) in the case of a qualifying new  
21          home which is a manufactured home, ac-  
22          companied by such documentation as re-  
23          quired by the Administrator of the Envi-  
24          ronmental Protection Agency under the  
25          Energy Star Labeled Homes program.

1           “(B) FORM PROVIDED TO BUYER.—A form  
2           documenting the energy efficient building enve-  
3           lope components and energy efficient heating or  
4           cooling equipment installed and their rated en-  
5           ergy efficiency performance shall be provided to  
6           the buyer of the qualifying new home. The form  
7           shall include labeled R-value for insulation  
8           products, NFRC-labeled U-factor and solar  
9           heat gain coefficient for windows, skylights, and  
10          doors, labeled annual fuel utilization efficiency  
11          (AFUE) ratings for furnaces and boilers, la-  
12          beled heating seasonal performance factor  
13          (HSPF) ratings for electric heat pumps, and la-  
14          beled seasonal energy efficiency ratio (SEER)  
15          ratings for air conditioners.

16          “(C) RATINGS LABEL AFFIXED IN DWELL-  
17          ING.—A permanent label documenting the rat-  
18          ings in subparagraph (B) shall be affixed to the  
19          front of the electrical distribution panel of the  
20          qualifying new home, or shall be otherwise per-  
21          manently displayed in a readily inspectable loca-  
22          tion in such home.

23          “(4) REGULATIONS.—

24                 “(A) IN GENERAL.—In prescribing regula-  
25                 tions under this subsection for performance-

1 based and guarantee-based certification meth-  
2 ods, the Secretary shall prescribe procedures for  
3 calculating annual energy usage and cost reduc-  
4 tions for heating and cooling and for the report-  
5 ing of the results. Such regulations shall—

6 “(i) provide that any calculation pro-  
7 cedures be fuel neutral such that the same  
8 energy efficiency measures allow a quali-  
9 fying new home to be eligible for the credit  
10 under this section regardless of whether  
11 such home uses a gas or oil furnace or  
12 boiler or an electric heat pump, and

13 “(ii) require that any computer soft-  
14 ware allow for the printing of the Federal  
15 tax forms necessary for the credit under  
16 this section and for the printing of forms  
17 for disclosure to the homebuyer.

18 “(B) PROVIDERS.—For purposes of para-  
19 graph (2)(B), the Secretary shall establish re-  
20 quirements for the designation of individuals  
21 based on the requirements for energy consult-  
22 ants and home energy raters specified by the  
23 Mortgage Industry National Home Energy Rat-  
24 ing Standards.

1       “(e) APPLICATION.—Subsection (a) shall apply to  
2       qualifying new homes the construction of which is substan-  
3       tially completed after December 31, 2004.”.

4       (b) CREDIT MADE PART OF GENERAL BUSINESS  
5       CREDIT.—Section 38(b) of such Code (relating to current  
6       year business credit) is amended by striking “plus” at the  
7       end of paragraph (15), by striking the period at the end  
8       of paragraph (16) and inserting “, plus”, and by adding  
9       at the end the following new paragraph:

10               “(17) the new energy efficient home credit de-  
11       termined under section 45H(a).”.

12       (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of  
13       such Code (relating to certain expenses for which credits  
14       are allowable) is amended by adding at the end the fol-  
15       lowing new subsection:

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

22       (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
23       CREDITS.—Section 196(c) of such Code (defining quali-  
24       fied business credits) is amended by striking “and” at the  
25       end of paragraph (9), by striking the period at the end

1 of paragraph (10) and inserting “, and”, and by adding  
 2 after paragraph (10) the following new paragraph:

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

5 (e) CLERICAL AMENDMENT.—The table of sections  
 6 for subpart D of part IV of subchapter A of chapter 1  
 7 of such Code is amended by adding after the item relating  
 8 to section 45G the following new item:

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

9 (f) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to homes the construction of which  
 11 is substantially completed after December 31, 2004.

12 **SEC. 206. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
 13 **MENTS TO EXISTING HOMES.**

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

19 **“SEC. 25C. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
 20 **ING HOMES.**

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



1 the taxpayer for qualified energy efficiency improvements  
2 installed during such taxable year.

3 “(b) LIMITATIONS.—

4 “(1) MAXIMUM CREDIT.—The credit allowed by  
5 this section with respect to a dwelling unit shall not  
6 exceed \$2,000.

7 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER  
8 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a  
9 credit was allowed to the taxpayer under subsection  
10 (a) with respect to a dwelling unit in 1 or more prior  
11 taxable years, the amount of the credit otherwise al-  
12 lowable for the taxable year with respect to that  
13 dwelling unit shall be reduced by the sum of the  
14 credits allowed under subsection (a) to the taxpayer  
15 with respect to the dwelling unit for all prior taxable  
16 years.

17 “(c) QUALIFIED ENERGY EFFICIENCY IMPROVE-  
18 MENTS.—For purposes of this section, the term ‘qualified  
19 energy efficiency improvements’ means any energy effi-  
20 cient building envelope component which meets the pre-  
21 scriptive criteria for such component established by the  
22 2000 International Energy Conservation Code, as such  
23 Code (including supplements) is in effect on the date of  
24 the enactment of this section (or, in the case of a metal

1 roof with appropriate pigmented coatings which meet the  
2 Energy Star program requirements), if—

3 “(1) such component is installed in or on a  
4 dwelling unit—

5 “(A) located in the United States,

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

9 “(C) which has not been treated as a  
10 qualified new energy efficient home for pur-  
11 poses of any credit allowed under section 45G,

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

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

16 If the aggregate cost of such components with respect to  
17 any dwelling unit exceeds \$1,000, such components shall  
18 be treated as qualified energy efficiency improvements  
19 only if such components are also certified in accordance  
20 with subsection (d) as meeting such prescriptive criteria.

21 “(d) CERTIFICATION.—The certification described in  
22 subsection (c) shall be—

23 “(1) determined on the basis of the technical  
24 specifications or applicable ratings (including prod-  
25 uct labeling requirements) for the measurement of

1 energy efficiency (based upon energy use or building  
2 envelope component performance) for the energy ef-  
3 ficient building envelope component,

4 “(2) provided by a local building regulatory au-  
5 thority, a utility, a manufactured home production  
6 inspection primary inspection agency (IPIA), or an  
7 accredited home energy rating system provider who  
8 is accredited by or otherwise authorized to use ap-  
9 proved energy performance measurement methods by  
10 the Residential Energy Services Network  
11 (RESNET), and

12 “(3) made in writing in a manner which speci-  
13 fies in readily verifiable fashion the energy efficient  
14 building envelope components installed and their re-  
15 spective energy efficiency levels.

16 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
17 poses of this section—

18 “(1) BUILDING ENVELOPE COMPONENT.—The  
19 term ‘building envelope component’ means—

20 “(A) any insulation material or system  
21 which is specifically and primarily designed to  
22 reduce the heat loss or gain of a dwelling unit  
23 when installed in or on such dwelling unit,

24 “(B) exterior windows (including sky-  
25 lights),

1 “(C) exterior doors, and

2 “(D) any metal roof installed on a dwelling  
3 unit, but only if such roof has appropriate pig-  
4 mented coatings which are specifically and pri-  
5 marily designed to reduce the heat gain of such  
6 dwelling unit.

7 “(2) MANUFACTURED HOMES INCLUDED.—The  
8 term ‘dwelling unit’ includes a manufactured home  
9 which conforms to Federal Manufactured Home  
10 Construction and Safety Standards (section 3280 of  
11 title 24, Code of Federal Regulations).

12 “(3) 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 fol-  
16 lowing rules shall apply:

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

24 “(B) There shall be allowable, with respect  
25 to such expenditures to each of such individ-

1 uals, a credit under subsection (a) for the tax-  
 2 able year in which such calendar year ends in  
 3 an amount which bears the same ratio to the  
 4 amount determined under subparagraph (A) as  
 5 the amount of such expenditures made by such  
 6 individual during such calendar year bears to  
 7 the aggregate of such expenditures made by all  
 8 of such individuals during such calendar year.

9 “(4) TENANT-STOCKHOLDER IN COOPERATIVE  
 10 HOUSING CORPORATION.—In the case of an indi-  
 11 vidual who is a tenant-stockholder (as defined in sec-  
 12 tion 216) in a cooperative housing corporation (as  
 13 defined in such section), such individual shall be  
 14 treated as having made the individual’s tenant-stock-  
 15 holder’s proportionate share (as defined in section  
 16 216(b)(3)) of any expenditures of such corporation.

17 “(5) CONDOMINIUMS.—

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

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

9                   “(f) BASIS ADJUSTMENT.—For purposes of this sub-  
10                  title, if a credit is allowed under this section for any ex-  
11                  penditure with respect to any property, the increase in the  
12                  basis of such property which would (but for this sub-  
13                  section) result from such expenditure shall be reduced by  
14                  the amount of the credit so allowed.

15                  “(g) APPLICATION OF SECTION.—This section shall  
16                  apply to qualified energy efficiency improvements installed  
17                  after December 31, 2003, and before January 1, 2007.”.

18                  (b) CONFORMING AMENDMENTS.—

19                         (1) Subsection (a) of section 1016 of such Code  
20                         is amended by striking “and” at the end of para-  
21                         graph (27), by striking the period at the end of  
22                         paragraph (28) and inserting “, and”, and by add-  
23                         ing at the end the following new paragraph:

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

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

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

8 (c) EFFECTIVE DATE.—The amendments made by  
 9 this section shall apply to taxable years ending after De-  
 10 cember 31, 2003.

11 **SEC. 207. SPECIAL RULES FOR CREDIT FOR ELECTRICITY**  
 12 **PRODUCED FROM CERTAIN RENEWABLE RE-**  
 13 **SOURCES.**

14 (a) ELIMINATION OF CERTAIN CREDIT REDUC-  
 15 TIONS.—Section 45(b)(3)(A) of the Internal Revenue  
 16 Code of 1986 (relating to credit reduced for grants, tax-  
 17 exempt bonds, subsidized energy financing, and other  
 18 credits) is amended—

19 (1) by striking clause (ii),

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

22 (3) by inserting “(other than proceeds of an  
 23 issue of State or local government obligations the in-  
 24 terest on which is exempt from tax under section  
 25 103, or any loan, debt, or other obligation incurred

1 under subchapter I of chapter 31 of title 7 of the  
 2 Rural Electrification Act of 1936 (7 U.S.C. 901 et  
 3 seq.), as in effect on the date of the enactment of  
 4 the Energy Tax Incentives Act)” after “project” in  
 5 clause (ii) (as so redesignated),

6 (4) by adding at the end the following new sen-  
 7 tence: “This paragraph shall not apply with respect  
 8 to any facility described in subsection (d)(2)(A)(ii).”,  
 9 and

10 (5) by striking “tax-exempt bonds,” in the  
 11 heading and inserting “certain”.

12 (b) TREATMENT OF PERSONS NOT ABLE TO USE EN-  
 13 TIRE CREDIT.—Section 45(e) of such Code (relating to  
 14 definitions and special rules), as redesignated by section  
 15 201(b)(1), is amended by adding at the end the following  
 16 new paragraph:

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

19 “(A) ALLOWANCE OF CREDIT.—

20 “(i) IN GENERAL.—Except as other-  
 21 wise provided in this subsection—

22 “(I) any credit allowable under  
 23 subsection (a) with respect to a quali-  
 24 fied facility owned by a person de-  
 25 scribed in clause (ii) may be trans-



ferred or used as provided in this paragraph, and

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

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

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

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

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

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

“(V) any Indian tribal government (within the meaning of section

1           7871) or any agency or instrumen-  
2           tality thereof, or

3           “(VI) the Tennessee Valley Au-  
4           thority.

5           “(B) TRANSFER OF CREDIT.—

6           “(i) IN GENERAL.—A person de-  
7           scribed in subclause (I), (II), (III), (IV), or  
8           (V) of subparagraph (A)(ii) may transfer  
9           any credit to which subparagraph (A)(i)  
10          applies through an assignment to any  
11          other person not described in subpara-  
12          graph (A)(ii). Such transfer may be re-  
13          voked only with the consent of the Sec-  
14          retary.

15          “(ii) REGULATIONS.—The Secretary  
16          shall prescribe such regulations as nec-  
17          essary to ensure that any credit described  
18          in clause (i) is assigned once and not reas-  
19          signed by such other person.

20          “(iii) TRANSFER PROCEEDS TREATED  
21          AS ARISING FROM ESSENTIAL GOVERN-  
22          MENT FUNCTION.—Any proceeds derived  
23          by a person described in subclause (III),  
24          (IV), or (V) of subparagraph (A)(ii) from  
25          the transfer of any credit under clause (i)

1           shall be treated as arising from the exer-  
2           cise of an essential government function.

3           “(C) USE OF CREDIT AS AN OFFSET.—

4       Notwithstanding any other provision of law, in  
5       the case of a person described in subclause (I),  
6       (II), or (V) of subparagraph (A)(ii), any credit  
7       to which subparagraph (A)(i) applies may be  
8       applied by such person, to the extent provided  
9       by the Secretary of Agriculture, as a prepay-  
10      ment of any loan, debt, or other obligation the  
11      entity has incurred under subchapter I of chap-  
12      ter 31 of title 7 of the Rural Electrification Act  
13      of 1936 (7 U.S.C. 901 et seq.), as in effect on  
14      the date of the enactment of the Energy Tax  
15      Incentives Act.

16          “(D) USE BY TVA.—

17               “(i) IN GENERAL.—Notwithstanding  
18              any other provision of law, in the case of  
19              a person described in subparagraph  
20              (A)(ii)(VI), any credit to which subpara-  
21              graph (A)(i) applies may be applied as a  
22              credit against the payments required to be  
23              made in any fiscal year under section  
24              15d(e) of the Tennessee Valley Authority  
25              Act of 1933 (16 U.S.C. 831n–4(e)) as an

1 annual return on the appropriations invest-  
2 ment and an annual repayment sum.

3 “(ii) TREATMENT OF CREDITS.—The  
4 aggregate amount of credits described in  
5 subparagraph (A)(i) with respect to such  
6 person shall be treated in the same manner  
7 and to the same extent as if such credits  
8 were a payment in cash and shall be ap-  
9 plied first against the annual return on the  
10 appropriations investment.

11 “(iii) CREDIT CARRYOVER.—With re-  
12 spect to any fiscal year, if the aggregate  
13 amount of credits described subparagraph  
14 (A)(i) with respect to such person exceeds  
15 the aggregate amount of payment obliga-  
16 tions described in clause (i), the excess  
17 amount shall remain available for applica-  
18 tion as credits against the amounts of such  
19 payment obligations in succeeding fiscal  
20 years in the same manner as described in  
21 this subparagraph.

22 “(E) CREDIT NOT INCOME.—Any transfer  
23 under subparagraph (B) or use under subpara-  
24 graph (C) of any credit to which subparagraph

1 (A)(i) applies shall not be treated as income for  
 2 purposes of section 501(c)(12).

3 “(F) TREATMENT OF UNRELATED PER-  
 4 SONS.—For purposes of subsection (a)(2)(B),  
 5 sales of electricity among and between persons  
 6 described in subparagraph (A)(ii) shall be treat-  
 7 ed as sales between unrelated parties.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
 9 this section shall apply to electricity produced and sold  
 10 after December 31, 2004, in taxable years ending after  
 11 such date.

12 **SEC. 208. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT**  
 13 **AND EXTENSION OF ALCOHOL FUELS IN-**  
 14 **COME TAX CREDIT.**

15 (a) IN GENERAL.—Subchapter B of chapter 65 of the  
 16 Internal Revenue Code of 1986 (relating to rules of special  
 17 application) is amended by inserting after section 6425  
 18 the following new section:

19 **“SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL**  
 20 **MIXTURES.**

21 “(a) ALLOWANCE OF CREDITS.—There shall be al-  
 22 lowed as a credit against the tax imposed by section 4081  
 23 an amount equal to the sum of—

24 “(1) the alcohol fuel mixture credit, plus

25 “(2) the biodiesel mixture credit.

1 “(b) ALCOHOL FUEL MIXTURE CREDIT.—

2 “(1) IN GENERAL.—For purposes of this sec-  
3 tion, the alcohol fuel mixture credit is the product  
4 of the applicable amount and the number of gallons  
5 of alcohol used by the taxpayer in producing any al-  
6 cohool fuel mixture for sale or use in a trade or busi-  
7 ness of the taxpayer.

8 “(2) APPLICABLE AMOUNT.—For purposes of  
9 this subsection—

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), the applicable amount is 52  
12 cents (51 cents in the case of any sale or use  
13 after 2004).

14 “(B) MIXTURES NOT CONTAINING ETH-  
15 ANOL.—In the case of an alcohol fuel mixture  
16 in which none of the alcohol consists of ethanol,  
17 the applicable amount is 60 cents.

18 “(3) ALCOHOL FUEL MIXTURE.—For purposes  
19 of this subsection, the term ‘alcohol fuel mixture’  
20 means a mixture of alcohol and a taxable fuel  
21 which—

22 “(A) is sold by the taxpayer producing  
23 such mixture to any person for use as a fuel,

24 “(B) is used as a fuel by the taxpayer pro-  
25 ducing such mixture, or

1           “(C) is removed from the refinery by a  
2           person producing such mixture.

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

5           “(A) ALCOHOL.—The term ‘alcohol’ in-  
6           cludes methanol and ethanol but does not in-  
7           clude—

8           “(i) alcohol produced from petroleum,  
9           natural gas, or coal (including peat), or

10          “(ii) alcohol with a proof of less than  
11          190 (determined without regard to any  
12          added denaturants).

13          Such term also includes an alcohol gallon equiv-  
14          alent of ethyl tertiary butyl ether or other  
15          ethers produced from such alcohol.

16          “(B) TAXABLE FUEL.—The term ‘taxable  
17          fuel’ has the meaning given such term by sec-  
18          tion 4083(a)(1).

19          “(c) BIODIESEL MIXTURE CREDIT.—

20          “(1) IN GENERAL.—For purposes of this sec-  
21          tion, the biodiesel mixture credit is the product of  
22          the applicable amount and the number of gallons of  
23          biodiesel used by the taxpayer in producing any bio-  
24          diesel mixture for sale or use in a trade or business  
25          of the taxpayer.

1           “(2) APPLICABLE AMOUNT.—For purposes of  
2       this subsection—

3           “(A) IN GENERAL.—Except as provided in  
4       subparagraph (B), the applicable amount is 50  
5       cents.

6           “(B) AMOUNT FOR AGRI-BIODIESEL.—In  
7       the case of any biodiesel which is agri-biodiesel,  
8       the applicable amount is \$1.00.

9           “(3) BIODIESEL MIXTURE.—For purposes of  
10      this section, the term ‘biodiesel mixture’ means a  
11      mixture of biodiesel and diesel fuel (as defined in  
12      section 4083(a)(3)), determined without regard to  
13      any use of kerosene, which—

14          “(A) is sold by the taxpayer producing  
15      such mixture to any person for use as a fuel,

16          “(B) is used as a fuel by the taxpayer pro-  
17      ducing such mixture, or

18          “(C) is removed from the refinery by a  
19      person producing such mixture.

20          “(4) CERTIFICATION FOR BIODIESEL.—No  
21      credit shall be allowed under this section unless the  
22      taxpayer obtains a certification (in such form and  
23      manner as prescribed by the Secretary) from the  
24      producer of the biodiesel which identifies the product



1 produced and the percentage of biodiesel and agri-  
2 biodiesel in the product.

3 “(d) MIXTURE NOT USED AS A FUEL, ETC.—

4 “(1) IMPOSITION OF TAX.—If—

5 “(A) any credit was determined under this  
6 section with respect to alcohol or biodiesel used  
7 in the production of any alcohol fuel mixture or  
8 biodiesel mixture, respectively, and

9 “(B) any person—

10 “(i) separates the alcohol or biodiesel  
11 from the mixture, or

12 “(ii) without separation, uses the mix-  
13 ture other than as a fuel,

14 then there is hereby imposed on such person a  
15 tax equal to the product of the applicable  
16 amount and the number of gallons of such alco-  
17 hol or biodiesel.

18 “(2) APPLICABLE LAWS.—All provisions of law,  
19 including penalties, shall, insofar as applicable and  
20 not inconsistent with this section, apply in respect of  
21 any tax imposed under paragraph (1) as if such tax  
22 were imposed by section 4081 and not by this sec-  
23 tion.

1       “(e) COORDINATION WITH EXEMPTION FROM EX-  
 2       CISE TAX.—Rules similar to the rules under section 40(c)  
 3       shall apply for purposes of this section.”.

4       (b)       REGISTRATION       REQUIREMENT.—Section  
 5       4101(a)(1) (relating to registration), as amended by sec-  
 6       tions 871 and 880 of this Act, is amended by inserting  
 7       “and every person producing or importing biodiesel (as de-  
 8       fined in section 40A(d)(1)) or alcohol (as defined in sec-  
 9       tion 6426(b)(4)(A))” after “4081”.

10       (c) ADDITIONAL AMENDMENTS.—

11               (1) Section 40(c) of such Code is amended by  
 12       striking “subsection (b)(2), (k), or (m) of section  
 13       4041, section 4081(c), or section 4091(c)” and in-  
 14       serting “section 4041(b)(2), section 6426, or section  
 15       6427(e)”.

16               (2) Paragraph (4) of section 40(d) of such Code  
 17       is amended to read as follows:

18               “(4) VOLUME OF ALCOHOL.—For purposes of  
 19       determining under subsection (a) the number of gal-  
 20       lons of alcohol with respect to which a credit is al-  
 21       lowable under subsection (a), the volume of alcohol  
 22       shall include the volume of any denaturant (includ-  
 23       ing gasoline) which is added under any formulas ap-  
 24       proved by the Secretary to the extent that such de-

1        naturants do not exceed 5 percent of the volume of  
2        such alcohol (including denaturants).”.

3            (3) Section 40(e) of such Code is hereby re-  
4        pealed.

5            (4) Section 40(h) of such Code is amended—

6                    (A) by striking “through 2007” in para-  
7                    graph (1) and inserting “and thereafter”, and

8                    (B) by striking paragraph (2) and insert-  
9                    ing the following:

10            “(2) AMOUNTS.—For purposes of paragraph  
11            (1), the blender amount is 51 cents and the low-  
12            proof blender amount is 37.78 cents.”.

13            (5) Section 4041(b)(2)(B) of such Code is  
14            amended by striking “a substance other than petro-  
15            leum or natural gas” and inserting “coal (including  
16            peat)”.

17            (6) Section 4041 of such Code is amended by  
18            striking subsection (k).

19            (7) Section 4081 of such Code is amended by  
20            striking subsection (c).

21            (8) Paragraph (2) of section 4083(a) of such  
22            Code is amended to read as follows:

23                    “(2) GASOLINE.—The term ‘gasoline’—

24                            “(A) includes any gasoline blend, other  
25                            than qualified methanol or ethanol fuel (as de-

1            fined in section 4041(b)(2)(B)), partially ex-  
 2            empt methanol or ethanol fuel (as defined in  
 3            section 4041(m)(2)), or a denatured alcohol,  
 4            and

5            “(B) includes, to the extent prescribed in  
 6            regulations—

7                    “(i) any gasoline blend stock, and

8                    “(ii) any product commonly used as  
 9                    an additive in gasoline (other than alco-  
 10                    hol).

11           For purposes of subparagraph (B)(i), the term ‘gas-  
 12           oline blend stock’ means any petroleum product  
 13           component of gasoline.”.

14           (9) Section 6427 of such Code is amended by  
 15           inserting after subsection (d) the following new sub-  
 16           section:

17           “(e) ALCOHOL OR BIODIESEL USED TO PRODUCE  
 18           ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS  
 19           FUELS.—Except as provided in subsection (k)—

20                    “(1) USED TO PRODUCE A MIXTURE.—If any  
 21           person produces a mixture described in section 6426  
 22           in such person’s trade or business, the Secretary  
 23           shall pay (without interest) to such person an  
 24           amount equal to the alcohol fuel mixture credit or

1 the biodiesel mixture credit with respect to such mix-  
2 ture.

3 “(2) USED AS FUEL.—If alcohol (as defined in  
4 section 40(d)(1)) or biodiesel (as defined in section  
5 40A(d)(1)) or agri-biodiesel (as defined in section  
6 40A(d)(2)) which is not in a mixture described in  
7 section 6426—

8 “(A) is used by any person as a fuel in a  
9 trade or business, or

10 “(B) is sold by any person at retail to an-  
11 other person and placed in the fuel tank of such  
12 person’s vehicle,

13 the Secretary shall pay (without interest) to such  
14 person an amount equal to the alcohol credit (as de-  
15 termined under section 40(b)(2)) or the biodiesel  
16 credit (as determined under section 40A(b)(2)) with  
17 respect to such fuel.

18 “(3) COORDINATION WITH OTHER REPAYMENT  
19 PROVISIONS.—No amount shall be payable under  
20 paragraph (1) with respect to any mixture with re-  
21 spect to which an amount is allowed as a credit  
22 under section 6426.”.

23 (10) Section 6427(i)(3) of such Code is amend-  
24 ed—

1           (A) by striking “subsection (f)” both  
2 places it appears in subparagraph (A) and in-  
3 serting “subsection (e)(1)”,

4           (B) by striking “gasoline, diesel fuel, or  
5 kerosene used to produce a qualified alcohol  
6 mixture (as defined in section 4081(c)(3))” in  
7 subparagraph (A) and inserting “a mixture de-  
8 scribed in section 6426”,

9           (C) by adding at the end of subparagraph  
10 (A) the following new flush sentence: “In the  
11 case of an electronic claim, this subparagraph  
12 shall be applied without regard to clause (i).”,

13           (D) by striking “subsection (f)(1)” in sub-  
14 paragraph (B) and inserting “subsection  
15 (e)(1)”,

16           (E) by striking “20 days of the date of the  
17 filing of such claim” in subparagraph (B) and  
18 inserting “45 days of the date of the filing of  
19 such claim (20 days in the case of an electronic  
20 claim)”, and

21           (F) by striking “alcohol mixture” in the  
22 heading and inserting “alcohol fuel and bio-  
23 diesel mixture”.

24           (11) Section 9503(b)(4) of such Code is amend-  
25 ed—

1 (A) by adding “or” at the end of subpara-  
 2 graph (C),

3 (B) by striking the comma at the end of  
 4 subparagraph (D)(iii) and inserting a period,  
 5 and

6 (C) by striking subparagraphs (E) and  
 7 (F).

8 (12) The table of sections for subchapter B of  
 9 chapter 65 of such Code is amended by inserting  
 10 after the item relating to section 6425 the following  
 11 new item:

“6426. Credit for alcohol fuel and biodiesel mixtures.”.

12 (13) TARIFF SCHEDULE.—Headings  
 13 9901.00.50 and 9901.00.52 of the Harmonized Tar-  
 14 iff Schedule of the United States (19 U.S.C. 3007)  
 15 are each amended in the effective period column by  
 16 striking “Before 10/1/2007,” each place it appears.  
 17 (d) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as otherwise pro-  
 19 vided in this subsection, the amendments made by  
 20 this section shall apply to fuel sold or used after  
 21 September 30, 2004.

22 (2) REGISTRATION REQUIREMENT.—The  
 23 amendment made by subsection (b) shall take effect  
 24 on April 1, 2005.

1           (3) EXTENSION OF ALCOHOL FUELS CREDIT.—

2           The amendments made by paragraphs (3), (4), and  
3           (13) of subsection (c) shall take effect on the date  
4           of the enactment of this Act.

5           (4) REPEAL OF GENERAL FUND RETENTION OF  
6           CERTAIN ALCOHOL FUELS TAXES.—The amend-  
7           ments made by subsection (c)(12) shall apply to fuel  
8           sold or used after September 30, 2003.

9           (e) FORMAT FOR FILING.—The Secretary of the  
10          Treasury shall describe the electronic format for filing  
11          claims described in section 6427(i)(3)(B) of the Internal  
12          Revenue Code of 1986 (as amended by subsection  
13          (c)(10)(C)) not later than September 30, 2004.

14       **SEC. 209. BIODIESEL INCOME TAX CREDIT.**

15          (a) IN GENERAL.—Subpart D of part IV of sub-  
16          chapter A of chapter 1 of the Internal Revenue Code of  
17          1986 (relating to business related credits) is amended by  
18          inserting after section 40 the following new section:

19       **“SEC. 40A. BIODIESEL USED AS FUEL.**

20               “(a) GENERAL RULE.—For purposes of section 38,  
21          the biodiesel fuels credit determined under this section for  
22          the taxable year is an amount equal to the sum of—

23                       “(1) the biodiesel mixture credit, plus

24                       “(2) the biodiesel credit.



1       “(b) DEFINITION OF BIODIESEL MIXTURE CREDIT  
2 AND BIODIESEL CREDIT.—For purposes of this section—

3               “(1) BIODIESEL MIXTURE CREDIT.—

4                       “(A) IN GENERAL.—The biodiesel mixture  
5 credit of any taxpayer for any taxable year is  
6 50 cents for each gallon of biodiesel used by the  
7 taxpayer in the production of a qualified bio-  
8 diesel mixture.

9                       “(B) QUALIFIED BIODIESEL MIXTURE.—  
10 The term ‘qualified biodiesel mixture’ means a  
11 mixture of biodiesel and diesel fuel (as defined  
12 in section 4083(a)(3)), determined without re-  
13 gard to any use of kerosene, which—

14                               “(i) is sold by the taxpayer producing  
15 such mixture to any person for use as a  
16 fuel, or

17                               “(ii) is used as a fuel by the taxpayer  
18 producing such mixture.

19                       “(C) SALE OR USE MUST BE IN TRADE OR  
20 BUSINESS, ETC.—Biodiesel used in the produc-  
21 tion of a qualified biodiesel mixture shall be  
22 taken into account—

23                               “(i) only if the sale or use described  
24 in subparagraph (B) is in a trade or busi-  
25 ness of the taxpayer, and

1                   “(ii) for the taxable year in which  
2                   such sale or use occurs.

3                   “(D) CASUAL OFF-FARM PRODUCTION NOT  
4                   ELIGIBLE.—No credit shall be allowed under  
5                   this section with respect to any casual off-farm  
6                   production of a qualified biodiesel mixture.

7                   “(2) BIODIESEL CREDIT.—

8                   “(A) IN GENERAL.—The biodiesel credit of  
9                   any taxpayer for any taxable year is 50 cents  
10                  for each gallon of biodiesel which is not in a  
11                  mixture with diesel fuel and which during the  
12                  taxable year—

13                  “(i) is used by the taxpayer as a fuel  
14                  in a trade or business, or

15                  “(ii) is sold by the taxpayer at retail  
16                  to a person and placed in the fuel tank of  
17                  such person’s vehicle.

18                  “(B) USER CREDIT NOT TO APPLY TO BIO-  
19                  DIESEL SOLD AT RETAIL.—No credit shall be  
20                  allowed under subparagraph (A)(i) with respect  
21                  to any biodiesel which was sold in a retail sale  
22                  described in subparagraph (A)(ii).

23                  “(3) CREDIT FOR AGRI-BIODIESEL.—In the  
24                  case of any biodiesel which is agri-biodiesel, para-

1       graphs (1)(A) and (2)(A) shall be applied by sub-  
2       stituting ‘\$1.00’ for ‘50 cents’.

3           “(4) CERTIFICATION FOR BIODIESEL.—No  
4       credit shall be allowed under this section unless the  
5       taxpayer obtains a certification (in such form and  
6       manner as prescribed by the Secretary) from the  
7       producer or importer of the biodiesel which identifies  
8       the product produced and the percentage of biodiesel  
9       and agri-biodiesel in the product.

10       “(c) COORDINATION WITH CREDIT AGAINST EXCISE  
11   TAX.—The amount of the credit determined under this  
12   section with respect to any biodiesel shall be properly re-  
13   duced to take into account any benefit provided with re-  
14   spect to such biodiesel solely by reason of the application  
15   of section 6426 or 6427(e).

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

18           “(1) BIODIESEL.—The term ‘biodiesel’ means  
19       the monoalkyl esters of long chain fatty acids de-  
20       rived from plant or animal matter which meet—

21           “(A) the registration requirements for  
22       fuels and fuel additives established by the Envi-  
23       ronmental Protection Agency under section 211  
24       of the Clean Air Act (42 U.S.C. 7545), and

1                   “(B) the requirements of the American So-  
2                   ciety of Testing and Materials D6751.

3                   “(2) AGRI-BIODIESEL.—The term ‘agri-bio-  
4                   diesel’ means biodiesel derived solely from virgin oils,  
5                   including esters derived from virgin vegetable oils  
6                   from corn, soybeans, sunflower seeds, cottonseeds,  
7                   canola, crambe, rapeseeds, safflowers, flaxseeds, rice  
8                   bran, and mustard seeds, and from animal fats.

9                   “(3) MIXTURE OR BIODIESEL NOT USED AS A  
10                  FUEL, ETC.—

11                  “(A) MIXTURES.—If—

12                         “(i) any credit was determined under  
13                         this section with respect to biodiesel used  
14                         in the production of any qualified biodiesel  
15                         mixture, and

16                         “(ii) any person—

17                                 “(I) separates the biodiesel from  
18                                 the mixture, or

19                                 “(II) without separation, uses the  
20                                 mixture other than as a fuel,

21                   then there is hereby imposed on such person a  
22                   tax equal to the product of the rate applicable  
23                   under subsection (b)(1)(A) and the number of  
24                   gallons of such biodiesel in such mixture.

25                   “(B) BIODIESEL.—If—

1 “(i) any credit was determined under  
2 this section with respect to the retail sale  
3 of any biodiesel, and

4 “(ii) any person mixes such biodiesel  
5 or uses such biodiesel other than as a fuel,  
6 then there is hereby imposed on such person a  
7 tax equal to the product of the rate applicable  
8 under subsection (b)(2)(A) and the number of  
9 gallons of such biodiesel.

10 “(C) APPLICABLE LAWS.—All provisions of  
11 law, including penalties, shall, insofar as appli-  
12 cable and not inconsistent with this section,  
13 apply in respect of any tax imposed under sub-  
14 paragraph (A) or (B) as if such tax were im-  
15 posed by section 4081 and not by this chapter.

16 “(4) PASS-THRU IN THE CASE OF ESTATES AND  
17 TRUSTS.—Under regulations prescribed by the Sec-  
18 retary, rules similar to the rules of subsection (d) of  
19 section 52 shall apply.”.

20 (b) CREDIT TREATED AS PART OF GENERAL BUSI-  
21 NESS CREDIT.—Section 38(b) of such Code (relating to  
22 current year business credit) is amended by inserting after  
23 paragraph (3) the end the following new paragraph (and  
24 redesignating the succeeding paragraphs accordingly):

1 “(4) the biodiesel fuels credit determined under  
2 section 40A(a),”.

3 (c) CONFORMING AMENDMENTS.—

4 (1)(A) Section 87 of such Code, as amended by  
5 this Act, is amended—

6 (i) by striking “and” at the end of para-  
7 graph (1),

8 (ii) by striking the period at the end of  
9 paragraph (2) and inserting “, and”,

10 (iii) by adding at the end the following new  
11 paragraph:

12 “(3) the biodiesel fuels credit determined with  
13 respect to the taxpayer for the taxable year under  
14 section 40A(a).”, and

15 (iv) by striking “**FUEL CREDIT**” in the head-  
16 ing and inserting “**AND BIODIESEL FUELS CRED-**  
17 **ITS**”.

18 (B) The item relating to section 87 in the table  
19 of sections for part II of subchapter B of chapter 1  
20 of such Code is amended by striking “fuel credit”  
21 and inserting “and biodiesel fuels credits”.

22 (2) Section 196(c) of such Code is amended by  
23 striking “and” at the end of paragraph (10), by  
24 striking the period at the end of paragraph (11) and

1 inserting “, and”, and by adding at the end the fol-  
 2 lowing new paragraph:

3 “(12) the biodiesel fuels credit determined  
 4 under section 40A(a).”.

5 (3) The table of sections for subpart D of part  
 6 IV of subchapter A of chapter 1 of such Code is  
 7 amended by adding after the item relating to section  
 8 40 the following new item:

“40A. Biodiesel used as fuel.”.

9 (d) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to fuel produced, and sold or used,  
 11 after September 30, 2004, in taxable years ending after  
 12 such date.

13 **SEC. 210. EXPANSION OF QUALIFIED SMALL-ISSUE BOND**  
 14 **PROGRAM; TREATMENT OF RENEWABLE**  
 15 **FUEL PRODUCTION FACILITIES.**

16 (a) EXPANSION.—

17 (1) IN GENERAL.—Clause (i) of section  
 18 144(a)(4)(A) of the Internal Revenue Code of 1986  
 19 (relating to \$10,000,000 limit in certain cases) is  
 20 amended by striking “\$10,000,000” and inserting  
 21 “\$20,000,000”.

22 (2) INFLATION ADJUSTMENT.—Paragraph (4)  
 23 of section 144(a) of such Code is amended by adding  
 24 at the end the following new subparagraph:

1                   “(G) INFLATION ADJUSTMENT OF  
 2                   \$20,000,000 LIMIT.—In the case of obligations  
 3                   issued during any calendar year after 2004, the  
 4                   \$20,000,000 amount in subparagraph (A) shall  
 5                   be increased by an amount equal to—

6                   “(i) such dollar amount, multiplied by

7                   “(ii) the cost-of-living adjustment de-  
 8                   termined under section 1(f)(3) for the cal-  
 9                   endar year in which the taxable year be-  
 10                  gins, by substituting ‘calendar year 2003’  
 11                  for ‘calendar year 1992’ in subparagraph  
 12                  (B) thereof.

13                  If any amount as increased under clause (i) is  
 14                  not a multiple of \$10,000, such amount shall be  
 15                  rounded to the nearest multiple of \$10,000.”

16                  (3) CLERICAL AMENDMENT.—The heading of  
 17                  paragraph (4) of section 144(a) of such Code is  
 18                  amended by striking “\$10,000,000” and inserting  
 19                  “\$20,000,000”.

20                  (4) EFFECTIVE DATE.—The amendments made  
 21                  by this subsection shall apply to—

22                  (A) obligations issued after the date of the  
 23                  enactment of this Act, and



1 (B) capital expenditures made after such  
 2 date with respect to obligations issued on or be-  
 3 fore such date.

4 (b) TREATMENT OF RENEWABLE FUEL PRODUCTION  
 5 FACILITIES.—

6 (1) IN GENERAL.—Paragraph (12) of section  
 7 144(a) of such Code is amended by adding at the  
 8 end the following new subparagraph:

9 “(D) RENEWABLE FUEL PRODUCTION FA-  
 10 CILITY.—For purposes of this paragraph, the  
 11 term ‘manufacturing property’ includes any fa-  
 12 cility described in paragraph (4)(F).”

13 (2) EFFECTIVE DATE.—The amendments made  
 14 by this subsection shall apply to bonds issued after  
 15 the date of the enactment of this Act.

16 **SEC. 211. ALTERNATIVE MOTOR VEHICLE CREDIT.**

17 (a) IN GENERAL.—Subpart B of part IV of sub-  
 18 chapter A of chapter 1 of the Internal Revenue Code of  
 19 1986 (relating to foreign tax credit, etc.) is amended by  
 20 adding at the end the following new section:

21 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

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

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

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

5           “(3) the new qualified alternative fuel motor ve-  
6           hicle credit determined under subsection (d).

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

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

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

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

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

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

1 “(2) INCREASE FOR FUEL EFFICIENCY.—

2 “(A) IN GENERAL.—The amount deter-  
3 mined under paragraph (1)(A) with respect to  
4 a new qualified fuel cell motor vehicle which is  
5 a passenger automobile or light truck shall be  
6 increased by—

7 “(i) \$1,000, if such vehicle achieves at  
8 least 150 percent but less than 175 per-  
9 cent of the 2002 model year city fuel econ-  
10 omy,

11 “(ii) \$1,500, if such vehicle achieves  
12 at least 175 percent but less than 200 per-  
13 cent of the 2002 model year city fuel econ-  
14 omy,

15 “(iii) \$2,000, if such vehicle achieves  
16 at least 200 percent but less than 225 per-  
17 cent of the 2002 model year city fuel econ-  
18 omy,

19 “(iv) \$2,500, if such vehicle achieves  
20 at least 225 percent but less than 250 per-  
21 cent of the 2002 model year city fuel econ-  
22 omy,

23 “(v) \$3,000, if such vehicle achieves  
24 at least 250 percent but less than 275 per-

1 cent of the 2002 model year city fuel econ-  
 2 omy,

3 “(vi) \$3,500, if such vehicle achieves  
 4 at least 275 percent but less than 300 per-  
 5 cent of the 2002 model year city fuel econ-  
 6 omy, and

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

10 “(B) 2002 MODEL YEAR CITY FUEL ECON-  
 11 OMY.—For purposes of subparagraph (A), the  
 12 2002 model year city fuel economy with respect  
 13 to a vehicle shall be determined in accordance  
 14 with the following tables:

15 “(i) In the case of a passenger auto-  
 16 mobile:

<b>“If vehicle inertia weight class is:</b>	<b>The 2002 model year city fuel economy is:</b>
1,500 or 1,750 lbs .....	45.2 mpg
2,000 lbs .....	39.6 mpg
2,250 lbs .....	35.2 mpg
2,500 lbs .....	31.7 mpg
2,750 lbs .....	28.8 mpg
3,000 lbs .....	26.4 mpg
3,500 lbs .....	22.6 mpg
4,000 lbs .....	19.8 mpg
4,500 lbs .....	17.6 mpg
5,000 lbs .....	15.9 mpg
5,500 lbs .....	14.4 mpg
6,000 lbs .....	13.2 mpg
6,500 lbs .....	12.2 mpg
7,000 to 8,500 lbs .....	11.3 mpg.

1 “(ii) In the case of a light truck:

<b>“If vehicle inertia weight class is:</b>	<b>The 2002 model year city fuel economy is:</b>
1,500 or 1,750 lbs .....	39.4 mpg
2,000 lbs .....	35.2 mpg
2,250 lbs .....	31.8 mpg
2,500 lbs .....	29.0 mpg
2,750 lbs .....	26.8 mpg
3,000 lbs .....	24.9 mpg
3,500 lbs .....	21.8 mpg
4,000 lbs .....	19.4 mpg
4,500 lbs .....	17.6 mpg
5,000 lbs .....	16.1 mpg
5,500 lbs .....	14.8 mpg
6,000 lbs .....	13.7 mpg
6,500 lbs .....	12.8 mpg
7,000 to 8,500 lbs .....	12.1 mpg.

2 “(C) VEHICLE INERTIA WEIGHT CLASS.—

3 For purposes of subparagraph (B), the term  
4 ‘vehicle inertia weight class’ has the same  
5 meaning as when defined in regulations pre-  
6 scribed by the Administrator of the Environ-  
7 mental Protection Agency for purposes of the  
8 administration of title II of the Clean Air Act  
9 (42 U.S.C. 7521 et seq.).

10 “(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-  
11 CLE.—For purposes of this subsection, the term  
12 ‘new qualified fuel cell motor vehicle’ means a motor  
13 vehicle—

14 “(A) which is propelled by power derived  
15 from 1 or more cells which convert chemical en-  
16 ergy directly into electricity by combining oxy-

1           gen with hydrogen fuel which is stored on board  
2           the vehicle in any form and may or may not re-  
3           quire reformation prior to use,

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

6           “(i) for 2002 and later model vehicles,  
7           has received a certificate of conformity  
8           under the Clean Air Act and meets or ex-  
9           ceeds the equivalent qualifying California  
10          low emission vehicle standard under sec-  
11          tion 243(e)(2) of the Clean Air Act for  
12          that make and model year, and

13          “(ii) for 2004 and later model vehi-  
14          cles, has received a certificate that such ve-  
15          hicle meets or exceeds the Bin 5 Tier II  
16          emission level established in regulations  
17          prescribed by the Administrator of the En-  
18          vironmental Protection Agency under sec-  
19          tion 202(i) of the Clean Air Act for that  
20          make and model year vehicle,

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

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

25          “(E) which is made by a manufacturer.

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

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

9               “(2) CREDIT AMOUNT.—

10              “(A) IN GENERAL.—The credit amount de-  
11       termined under this paragraph shall be deter-  
12       mined in accordance with the following tables:

13              “(i) In the case of a new qualified hy-  
14       brid motor vehicle which is a passenger  
15       automobile, medium duty passenger vehi-  
16       cle, or light truck and which provides the  
17       following percentage of the maximum  
18       available power:

<b>“If percentage of the maximum available power is:</b>	<b>The credit amount is:</b>
At least 4 percent but less than 10 percent .....	\$250
At least 10 percent but less than 20 percent .....	\$500
At least 20 percent but less than 30 percent .....	\$750
At least 30 percent .....	\$1,000.

19              “(ii) In the case of a new qualified hy-  
20       brid motor vehicle which is a heavy duty  
21       hybrid motor vehicle and which provides

1 the following percentage of the maximum  
2 available power:

3 “(I) If such vehicle has a gross  
4 vehicle weight rating of not more than  
5 14,000 pounds:

<b>“If percentage of the maximum available power is:</b>	<b>The credit amount is:</b>
At least 20 percent but less than 30 percent .....	\$1,000
At least 30 percent but less than 40 percent .....	\$1,750
At least 40 percent but less than 50 percent .....	\$2,000
At least 50 percent but less than 60 percent .....	\$2,250
At least 60 percent .....	\$2,500.

6 “(II) If such vehicle has a gross  
7 vehicle weight rating of more than  
8 14,000 but not more than 26,000  
9 pounds:

<b>“If percentage of the maximum available power is:</b>	<b>The credit amount is:</b>
At least 20 percent but less than 30 percent .....	\$4,000
At least 30 percent but less than 40 percent .....	\$4,500
At least 40 percent but less than 50 percent .....	\$5,000
At least 50 percent but less than 60 percent .....	\$5,500
At least 60 percent .....	\$6,000.

10 “(III) If such vehicle has a gross  
11 vehicle weight rating of more than  
12 26,000 pounds:

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



1 “(B) INCREASE FOR FUEL EFFICIENCY.—

2 “(i) AMOUNT.—The amount deter-  
3 mined under subparagraph (A)(i) with re-  
4 spect to a new qualified hybrid motor vehi-  
5 cle which is a passenger automobile or  
6 light truck shall be increased by—

7 “(I) \$500, if such vehicle  
8 achieves at least 125 percent but less  
9 than 150 percent of the 2002 model  
10 year city fuel economy,

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

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

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

23 “(V) \$2,500, if such vehicle  
24 achieves at least 225 percent but less

1                   than 250 percent of the 2002 model  
2                   year city fuel economy, and

3                   “(VI) \$3,000, if such vehicle  
4                   achieves at least 250 percent of the  
5                   2002 model year city fuel economy.

6                   “(ii) 2002 MODEL YEAR CITY FUEL  
7                   ECONOMY.—For purposes of clause (i), the  
8                   2002 model year city fuel economy with re-  
9                   spect to a vehicle shall be determined on a  
10                  gasoline gallon equivalent basis as deter-  
11                  mined by the Administrator of the Envi-  
12                  ronmental Protection Agency using the ta-  
13                  bles provided in subsection (b)(2)(B) with  
14                  respect to such vehicle.

15                  “(C) INCREASE FOR ACCELERATED EMIS-  
16                  SIONS PERFORMANCE.—The amount deter-  
17                  mined under subparagraph (A)(ii) with respect  
18                  to an applicable heavy duty hybrid motor vehi-  
19                  cle shall be increased by the increased credit  
20                  amount determined in accordance with the fol-  
21                  lowing tables:

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

<b>“If the model year is:</b>	<b>The increased credit amount is:</b>
2004 .....	\$2,500
2005 .....	\$2,000
2006 .....	\$1,500.

1                   “(ii) In the case of a vehicle which  
2                   has a gross vehicle weight rating of more  
3                   than 14,000 pounds but not more than  
4                   26,000 pounds:

<b>“If the model year is:</b>	<b>The increased credit amount is:</b>
2004 .....	\$6,500
2005 .....	\$5,250
2006 .....	\$4,000.

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

<b>“If the model year is:</b>	<b>The increased credit amount is:</b>
2004 .....	\$10,000
2005 .....	\$8,000
2006 .....	\$6,000.

8                   “(D) DEFINITIONS RELATING TO CREDIT  
9                   AMOUNT.—

10                  “(i) APPLICABLE HEAVY DUTY HY-  
11                  BRID MOTOR VEHICLE.—For purposes of  
12                  subparagraph (C), the term ‘applicable  
13                  heavy duty hybrid motor vehicle’ means a

1 heavy duty hybrid motor vehicle which is  
2 powered by an internal combustion or heat  
3 engine which is certified as meeting the  
4 emission standards set in the regulations  
5 prescribed by the Administrator of the En-  
6 vironmental Protection Agency for 2007  
7 and later model year diesel heavy duty en-  
8 gines, or for 2008 and later model year  
9 ottocycle heavy duty engines, as applicable.

10 “(ii) MAXIMUM AVAILABLE POWER.—

11 “(I) PASSENGER AUTOMOBILE,  
12 MEDIUM DUTY PASSENGER VEHICLE,  
13 OR LIGHT TRUCK.—For purposes of  
14 subparagraph (A)(i), the term ‘max-  
15 imum available power’ means the  
16 maximum power available from the re-  
17 chargeable energy storage system,  
18 during a standard 10 second pulse  
19 power or equivalent test, divided by  
20 such maximum power and the SAE  
21 net power of the heat engine.

22 “(II) HEAVY DUTY HYBRID  
23 MOTOR VEHICLE.—For purposes of  
24 subparagraph (A)(ii), the term ‘max-  
25 imum available power’ means the

1 maximum power available from the re-  
2 chargeable energy storage system,  
3 during a standard 10 second pulse  
4 power or equivalent test, divided by  
5 the vehicle's total traction power. The  
6 term 'total traction power' means the  
7 sum of the peak power from the re-  
8 chargeable energy storage system and  
9 the heat engine peak power of the ve-  
10 hicle, except that if such storage sys-  
11 tem is the sole means by which the ve-  
12 hicle can be driven, the total traction  
13 power is the peak power of such stor-  
14 age system.

15 “(3) NEW QUALIFIED HYBRID MOTOR VEHI-  
16 CLE.—For purposes of this subsection—

17 “(A) IN GENERAL.—The term 'new quali-  
18 fied hybrid motor vehicle' means a motor vehi-  
19 cle—

20 “(i) which draws propulsion energy  
21 from onboard sources of stored energy  
22 which are both—

23 “(I) an internal combustion or  
24 heat engine using consumable fuel,  
25 and

1                   “(II) a rechargeable energy stor-  
2                   age system,

3                   “(ii) which, in the case of a passenger  
4                   automobile, medium duty passenger vehi-  
5                   cle, or light truck—

6                   “(I) for 2002 and later model ve-  
7                   hicles, has received a certificate of  
8                   conformity under the Clean Air Act  
9                   and meets or exceeds the equivalent  
10                  qualifying California low emission ve-  
11                  hicle standard under section 243(e)(2)  
12                  of the Clean Air Act for that make  
13                  and model year, and

14                  “(II) for 2004 and later model  
15                  vehicles, has received a certificate that  
16                  such vehicle meets or exceeds the Bin  
17                  5 Tier II emission level established in  
18                  regulations prescribed by the Adminis-  
19                  trator of the Environmental Protec-  
20                  tion Agency under section 202(i) of  
21                  the Clean Air Act for that make and  
22                  model year vehicle,

23                  “(iii) which, in the case of a heavy  
24                  duty hybrid motor vehicle, has an internal  
25                  combustion or heat engine which has re-

1           ceived a certificate of conformity under the  
2           Clean Air Act as meeting the emission  
3           standards set in the regulations prescribed  
4           by the Administrator of the Environmental  
5           Protection Agency for 2004 through 2007  
6           model year diesel heavy duty engines or  
7           ottocycle heavy duty engines, as applicable,

8           “(iv) the original use of which com-  
9           mences with the taxpayer,

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

12           “(vi) which is made by a manufac-  
13           turer.

14           “(B) CONSUMABLE FUEL.—For purposes  
15           of subparagraph (A)(i)(I), the term ‘consumable  
16           fuel’ means any solid, liquid, or gaseous matter  
17           which releases energy when consumed by an  
18           auxiliary power unit.

19           “(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—  
20           For purposes of this subsection, the term ‘heavy  
21           duty hybrid motor vehicle’ means a new qualified hy-  
22           brid motor vehicle which has a gross vehicle weight  
23           rating of more than 8,500 pounds. Such term does  
24           not include a medium duty passenger vehicle.

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

3               “(1) ALLOWANCE OF CREDIT.—Except as pro-  
4 vided in paragraph (5), the new qualified alternative  
5 fuel motor vehicle credit determined under this sub-  
6 section is an amount equal to the applicable percent-  
7 age of the incremental cost of any new qualified al-  
8 ternative fuel motor vehicle placed in service by the  
9 taxpayer during the taxable year.

10              “(2) APPLICABLE PERCENTAGE.—For purposes  
11 of paragraph (1), the applicable percentage with re-  
12 spect to any new qualified alternative fuel motor ve-  
13 hicle is—

14                      “(A) 40 percent, plus

15                      “(B) 30 percent, if such vehicle—

16                              “(i) has received a certificate of con-  
17 formity under the Clean Air Act and meets  
18 or exceeds the most stringent standard  
19 available for certification under the Clean  
20 Air Act for that make and model year vehi-  
21 cle (other than a zero emission standard),  
22 or

23                              “(ii) has received an order certifying  
24 the vehicle as meeting the same require-  
25 ments as vehicles which may be sold or



1 leased in California and meets or exceeds  
2 the most stringent standard available for  
3 certification under the State laws of Cali-  
4 fornia (enacted in accordance with a waiv-  
5 er granted under section 209(b) of the  
6 Clean Air Act) for that make and model  
7 year vehicle (other than a zero emission  
8 standard).

9 For purposes of the preceding sentence, in the case  
10 of any new qualified alternative fuel motor vehicle  
11 which weighs more than 14,000 pounds gross vehicle  
12 weight rating, the most stringent standard available  
13 shall be such standard available for certification on  
14 the date of the enactment of the Energy Tax Incen-  
15 tives Act.

16 “(3) INCREMENTAL COST.—For purposes of  
17 this subsection, the incremental cost of any new  
18 qualified alternative fuel motor vehicle is equal to  
19 the amount of the excess of the manufacturer’s sug-  
20 gested retail price for such vehicle over such price  
21 for a gasoline or diesel fuel motor vehicle of the  
22 same model, to the extent such amount does not ex-  
23 ceed—

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

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

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

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

13           “(4) NEW QUALIFIED ALTERNATIVE FUEL  
14           MOTOR VEHICLE.—For purposes of this sub-  
15           section—

16           “(A) IN GENERAL.—The term ‘new quali-  
17           fied alternative fuel motor vehicle’ means any  
18           motor vehicle—

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

21                   “(ii) the original use of which com-  
22                   mences with the taxpayer,

23                   “(iii) which is acquired by the tax-  
24                   payer for use or lease, but not for resale,  
25                   and

1 “(iv) which is made by a manufac-  
2 turer.

3 “(B) ALTERNATIVE FUEL.—The term ‘al-  
4 ternative fuel’ means compressed natural gas,  
5 liquefied natural gas, liquefied petroleum gas,  
6 hydrogen, and any liquid at least 85 percent of  
7 the volume of which consists of methanol.

8 “(5) CREDIT FOR MIXED-FUEL VEHICLES.—

9 “(A) IN GENERAL.—In the case of a  
10 mixed-fuel vehicle placed in service by the tax-  
11 payer during the taxable year, the credit deter-  
12 mined under this subsection is an amount equal  
13 to—

14 “(i) in the case of a 75/25 mixed-fuel  
15 vehicle, 70 percent of the credit which  
16 would have been allowed under this sub-  
17 section if such vehicle was a qualified alter-  
18 native fuel motor vehicle, and

19 “(ii) in the case of a 90/10 mixed-fuel  
20 vehicle, 90 percent of the credit which  
21 would have been allowed under this sub-  
22 section if such vehicle was a qualified alter-  
23 native fuel motor vehicle.

24 “(B) MIXED-FUEL VEHICLE.—For pur-  
25 poses of this subsection, the term ‘mixed-fuel

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

4 “(i) is certified by the manufacturer  
5 as being able to perform efficiently in nor-  
6 mal operation on a combination of an al-  
7 ternative fuel and a petroleum-based fuel,

8 “(ii) either—

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

12 “(II) has received an order certi-  
13 fying the vehicle as meeting the same  
14 requirements as vehicles which may be  
15 sold or leased in California and meets  
16 or exceeds the low emission vehicle  
17 standard under section 88.105–94 of  
18 title 40, Code of Federal Regulations,  
19 for that make and model year vehicle,

20 “(iii) the original use of which com-  
21 mences with the taxpayer,

22 “(iv) which is acquired by the tax-  
23 payer for use or lease, but not for resale,  
24 and

1                   “(v) which is made by a manufac-  
2                   turer.

3                   “(C) 75/25 MIXED-FUEL VEHICLE.—For  
4                   purposes of this subsection, the term ‘75/25  
5                   mixed-fuel vehicle’ means a mixed-fuel vehicle  
6                   which operates using at least 75 percent alter-  
7                   native fuel and not more than 25 percent petro-  
8                   leum-based fuel.

9                   “(D) 90/10 MIXED-FUEL VEHICLE.—For  
10                  purposes of this subsection, the term ‘90/10  
11                  mixed-fuel vehicle’ means a mixed-fuel vehicle  
12                  which operates using at least 90 percent alter-  
13                  native fuel and not more than 10 percent petro-  
14                  leum-based fuel.

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

18               “(1) the regular tax for the taxable year re-  
19               duced by the sum of the credits allowable under sub-  
20               part A and sections 27, 29, and 30, over

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

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

1           “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
2           cle’ has the meaning given such term by section  
3           30(c)(2).

4           “(2) CITY FUEL ECONOMY.—The city fuel econ-  
5           omy with respect to any vehicle shall be measured in  
6           a manner which is substantially similar to the man-  
7           ner city fuel economy is measured in accordance  
8           with procedures under part 600 of subchapter Q of  
9           chapter I of title 40, Code of Federal Regulations,  
10          as in effect on the date of the enactment of this sec-  
11          tion.

12          “(3) OTHER TERMS.—The terms ‘automobile’,  
13          ‘passenger automobile’, ‘medium duty passenger ve-  
14          hicle’, ‘light truck’, and ‘manufacturer’ have the  
15          meanings given such terms in regulations prescribed  
16          by the Administrator of the Environmental Protec-  
17          tion Agency for purposes of the administration of  
18          title II of the Clean Air Act (42 U.S.C. 7521 et  
19          seq.).

20          “(4) REDUCTION IN BASIS.—For purposes of  
21          this subtitle, the basis of any property for which a  
22          credit is allowable under subsection (a) shall be re-  
23          duced by the amount of such credit so allowed (de-  
24          termined without regard to subsection (e)).

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

4                   “(A) for any incremental cost taken into  
5           account in computing the amount of the credit  
6           determined under subsection (d) shall be re-  
7           duced by the amount of such credit attributable  
8           to such cost, and

9                   “(B) with respect to a vehicle described  
10          under subsection (b) or (c), shall be reduced by  
11          the amount of credit allowed under subsection  
12          (a) for such vehicle for the taxable year.

13          “(6) PROPERTY USED BY TAX-EXEMPT ENTI-  
14          TIES.—In the case of a credit amount which is al-  
15          lowable with respect to a motor vehicle which is ac-  
16          quired by an entity exempt from tax under this  
17          chapter, the person which sells or leases such vehicle  
18          to the entity shall be treated as the taxpayer with  
19          respect to the vehicle for purposes of this section  
20          and the credit shall be allowed to such person, but  
21          only if the person clearly discloses to the entity at  
22          the time of any sale or lease the specific amount of  
23          any credit otherwise allowable to the entity under  
24          this section.

1           “(7) RECAPTURE.—The Secretary shall, by reg-  
2           ulations, provide for recapturing the benefit of any  
3           credit allowable under subsection (a) with respect to  
4           any property which ceases to be property eligible for  
5           such credit (including recapture in the case of a  
6           lease period of less than the economic life of a vehi-  
7           cle).

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

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

18          “(10) CARRYBACK AND CARRYFORWARD AL-  
19          LOWED.—

20                 “(A) IN GENERAL.—If the credit allowable  
21                 under subsection (a) for a taxable year exceeds  
22                 the amount of the limitation under subsection  
23                 (e) for such taxable year (in this paragraph re-  
24                 ferred to as the ‘unused credit year’), such ex-  
25                 cess shall be a credit carryback to each of the



1           3 taxable years preceding the unused credit  
2           year and a credit carryforward to each of the  
3           20 taxable years following the unused credit  
4           year, except that no excess may be carried to a  
5           taxable year beginning before January 1, 2005.

6           “(B) RULES.—Rules similar to the rules of  
7           section 39 shall apply with respect to the credit  
8           carryback and credit carryforward under sub-  
9           paragraph (A).

10          “(11) INTERACTION WITH AIR QUALITY AND  
11          MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-  
12          erwise provided in this section, a motor vehicle shall  
13          not be considered eligible for a credit under this sec-  
14          tion unless such vehicle is in compliance with—

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

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

24          “(g) REGULATIONS.—

1           “(1) IN GENERAL.—Except as provided in para-  
2           graph (2), the Secretary shall promulgate such regu-  
3           lations as necessary to carry out the provisions of  
4           this section.

5           “(2) COORDINATION IN PRESCRIPTION OF CER-  
6           TAIN REGULATIONS.—The Secretary of the Treas-  
7           ury, in coordination with the Secretary of Transpor-  
8           tation and the Administrator of the Environmental  
9           Protection Agency, shall prescribe such regulations  
10          as necessary to determine whether a motor vehicle  
11          meets the requirements to be eligible for a credit  
12          under this section.”.

13          (b) CONFORMING AMENDMENTS.—

14                 (1) Section 1016(a) of such Code is amended  
15                 by striking “and” at the end of paragraph (28), by  
16                 striking the period at the end of paragraph (29) and  
17                 inserting “, and”, and by adding at the end the fol-  
18                 lowing new paragraph:

19                         “(30) to the extent provided in section  
20                         30B(f)(4).”.

21                 (2) Section 55(c)(2) of such Code is amended  
22                 by inserting “30B(e),” after “30(b)(2),”.

23                 (3) Section 6501(m) of such Code is amended  
24                 by inserting “30B(f)(9),” after “30(d)(4),”.

1           (4) The table of sections for subpart B of part  
 2           IV of subchapter A of chapter 1 of such Code is  
 3           amended by inserting after the item relating to sec-  
 4           tion 30A the following new item:

“30B. Alternative motor vehicle credit.”.

5           (c) EFFECTIVE DATE.—The amendments made by  
 6           this section shall apply to property placed in service after  
 7           December 31, 2004, in taxable years ending after such  
 8           date.

9           **SEC. 212. CREDIT FOR ENGINES COMPLYING WITH TIER 2,**  
 10           **3, OR 4 EMISSION LEVELS.**

11           (a) IN GENERAL.—Subpart D of part IV of sub-  
 12           chapter A of chapter 1 (relating to business-related cred-  
 13           its) is amended by adding after section 45H the following  
 14           new section:

15           **“SEC. 45I. CREDIT FOR ENGINES COMPLYING WITH TIER 2,**  
 16           **3, OR 4 EMISSIONS LEVELS.**

17           “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
 18           tion 38, the emissions compliant engine credit determined  
 19           under this section for the taxable year is, for each emis-  
 20           sions compliant engine incorporated into a product manu-  
 21           factured by the taxpayer during the taxable year, an  
 22           amount equal to—

23           “(1) \$100 for each such engine which is an  
 24           emissions compliant engine with respect to the Tier  
 25           2 emissions level established in regulations pre-

1 scribed by the Administrator of the Environmental  
2 Protection Agency under section 213 of the Clean  
3 Air Act,

4 “(2) \$150 for each such engine which is an  
5 emissions compliant engine with respect to the Tier  
6 3 emissions level so established, and

7 “(3) \$200 for each such engine which is an  
8 emissions compliant engine with respect to the Tier  
9 4 emissions level so established.

10 “(b) EMISSIONS COMPLIANT ENGINE.—For purposes  
11 of this section, the term ‘emissions compliant engine’  
12 means any engine—

13 “(1) which is required to meet the Tier 2, 3 or  
14 4 emissions level established in regulations pre-  
15 scribed by the Administrator of the Environmental  
16 Protection Agency under section 213 of the Clean  
17 Air Act, and

18 “(2) which meets such requirement.”.

19 (b) CREDIT MADE PART OF GENERAL BUSINESS  
20 CREDIT.—Section 38(b) of such Code (relating to current  
21 year business credit), as previously amended by this Act,  
22 is amended by striking “plus” at the end of paragraph  
23 (17), by striking the period at the end of paragraph (18)  
24 and inserting “, plus”, and by adding at the end of the  
25 following new paragraph:

1           “(19) the emissions compliant engine credit de-  
2           termined under section 45I(a).”.

3           (c) CLERICAL AMENDMENT.—The table of sections  
4 for subpart D of part IV of subchapter A of chapter 1  
5 of such code is amended by adding after the item relating  
6 to section 45H the following new item:

“Sec. 45I. Credit for engines complying with Tier 2, 3, or 4 emissions levels.”.

7           (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to engines incorporated into prod-  
9 ucts produced after December 31, 2004, in taxable years  
10 ending after such date.

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