108TH CONGRESS
1ST SESSION

S. 507

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

IN THE SENATE OF THE UNITED STATES

MARCH 4, 2003

Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. KERRY, Mr. SMITH, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Efficient Energy through Certified Technologies (EFFECT) Act of 2003''.

SEC. 2. INCENTIVE FOR CERTAIN ENERGY EFFICIENT PROPERTY USED IN BUSINESS.

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

"SEC. 199. ENERGY PROPERTY DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(1) the amount determined under subsection (b) for each energy property of the taxpayer placed in service during such taxable year,

"(2) the energy efficient commercial building property deduction determined under subsection (e), and

"(3) the energy efficient residential rental building property deduction determined under subsection (f).

"(b) AMOUNT FOR ENERGY PROPERTY.—

"(1) IN GENERAL.—The amount determined under this subsection for the taxable year for each item of energy property shall equal the amount specified for such property in the following table:

Description of property:	Allowable amount is:
Elected solar hot water property	$1.00 per each kwh/year of savings.

Description of property:	Allowable amount is:
Photovoltaic property	$4.50 per peak watt.
Advanced main air circulating fan	$150.
Tier 2 energy-efficient building property	$900.
Tier 1 energy-efficient building property (other than an advanced main air circulating fan.	$450.

''(2) ELECTED SOLAR HOT WATER PROPERTY.—In the case of elected solar hot water property, the taxpayer may elect to substitute '$21 per annual Therm of natural gas savings' for '$1.00 per each kwh/year of savings' in the table contained in paragraph (1).

''(c) ENERGY PROPERTY DEFINED.—

''(1) IN GENERAL.—For purposes of this part, the term 'energy property' means any property—

''(A) which is—

''(i) solar energy property,

''(ii) Tier 2 energy-efficient building property, or

''(iii) Tier 1 energy-efficient building property,

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

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(D) which meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute,

''(iii) in the case of geothermal heat pumps—

''(I) shall be based on testing under the conditions of ARI/ISO Standard 13256–1 for Water Source Heat Pumps or ARI 870 for Direct GeoExchange Heat Pumps (DX), as appropriate, and

''(II) shall include evidence that water heating services have been provided through a desuperheater or integrated water heating system connected to the storage water heater tank, and

''(iv) are in effect at the time of the acquisition of the property.

''(2) SOLAR ENERGY PROPERTY.—In the case of—

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

''(B) photovoltaics, such regulations shall be based on the ASTM Standard E 1036 and E 1036M–96 Standard Test Method for Elec-

tric Performance of Nonconcentrator Terrestrial Photovoltaic Modules and Arrays Using Reference Cells,

to the extent the Secretary determines such standards carry out the purposes of this section.

''(3) EXCEPTION.—Such term shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

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

''(1) SOLAR ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'solar energy property' means equipment which uses solar energy—

''(i) to generate electricity, or

''(ii) to provide hot water for use in a structure.

''(B) ELECTED SOLAR HOT WATER PROPERTY.—

''(i) IN GENERAL.—The term 'elected solar hot water property' means property which is solar energy property by reason of subparagraph (A)(ii) and for which an

election under this subparagraph is in effect.

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

''(C) PHOTOVOLTAIC PROPERTY.—The term 'photovoltaic property' means solar energy property which uses a solar photovoltaic process to generate electricity.

''(D) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—The term 'solar energy property' shall not include a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage.

''(E) SOLAR PANELS.—No solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as solar energy property solely because it constitutes a structural component of the structure on which it is installed.

''(2) TIER 2 ENERGY-EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy-efficient building property' means—

"(A) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure,

"(B) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

"(C) a geothermal heat pump which—

"(i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

"(ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and

"(iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,

"(D) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at

least 15 and an energy efficiency ratio (EER) of at least 12.5, and

"(E) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

"(3) TIER 1 ENERGY-EFFICIENT BUILDING PROPERTY.—The term 'Tier 1 energy-efficient building property' means—

"(A) an electric heat pump which has a heating system performance factor (HSPF) of at least 7.5, a cooling seasonal energy efficiency ratio (SEER) of at least 13.5, and an energy efficiency ratio (EER) of at least 11.5,

"(B) a central air conditioner which has a cooling seasonal energy efficiency ratio (SEER) of at least 13.5 and an energy efficiency ratio (EER) of at least 11.5,

"(C) a natural gas, propane, or oil water heater which has an energy factor of at least 0.65, and

"(D) an oil, natural gas, or propane furnace or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE).

''(4) ADVANCED MAIN AIR CIRCULATING FAN.—The term 'advanced main air circulating fan' means a fan used in a natural gas, propane, or oil furnace originally placed in service by the taxpayer during the taxable year, including a fan which uses a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at full and half speed, as determined by the Secretary.

''(e) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY DEDUCTION.—

''(1) DEDUCTION ALLOWED.—For purposes of subsection (a)—

''(A) IN GENERAL.—The energy efficient commercial building property deduction determined under this subsection is an amount equal to energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(B) MAXIMUM AMOUNT OF DEDUCTION.—Except as otherwise provided in this subsection, the amount of energy efficient commercial building property expenditures taken into account under subparagraph (A) shall not exceed an amount equal to the product of—

"(i) $2.25, and

"(ii) the square footage of the building with respect to which the expenditures are made.

"(C) YEAR DEDUCTION ALLOWED.—The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction, reconstruction, or erection of the building is completed.

"(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this subsection, the term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction, reconstruction, or erection of property—

"(A) for which depreciation is allowable under section 167,

"(B) which is located in the United States, and

"(C) the construction, reconstruction, or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and

single family housing property which is not within the scope of ASHRAE Standard 90.1–2001 (described in paragraph (3)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(3) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The term 'energy efficient commercial building property' means any building property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by at least 50 percent in comparison to a reference building which meets the requirements of ASHRAE Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (6).

''(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of

Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2001 California Residential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

''(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost reduction procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost reduction procedures in lieu of those adopted by the Secretary.

''(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that 1 of the following shall apply:

''(I) The expenditures taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed.

''(II) The energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such ASHRAE Standard 90.1–2001.

''(III) The expenditures taken into account under paragraph (1) shall be a fraction of such expenditures based on the energy cost savings performance of less than all energy-using systems in accordance with clause (iii) and shall be limited to

$0.75 per square foot for each of the energy-using systems.

''(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system, and the limitation under paragraph (2), shall be allocated to the appropriate building subsystem based on a demonstration of compliance with system-specific energy cost savings targets established in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such ASHRAE Standard 90.1–2001.

''(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection re-

gardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such ASHRAE Standard 90.1–2001 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

''(I) Natural ventilation.

''(II) Evaporative cooling.

''(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(IV) Daylighting.

''(V) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.

''(VI) Improved fan system efficiency, including reductions in static pressure.

''(VII) Advanced unloading mechanisms for mechanical cooling,

such as multiple or variable speed compressors.

''(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

''(IX) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy.

''(C) COMPUTER SOFTWARE.—

''(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

''(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

''(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and

power consumption and costs as required by the Secretary,

''(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

''(III) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

''(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

''(5) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs

as provided in the notice under paragraph (3)(C)(ii)(III).

"(6) CERTIFICATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings which are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

"(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and train-

ing programs to qualify individuals to determine compliance.

''(f) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY DEDUCTION.—

''(1) DEDUCTION ALLOWED.—For purposes of subsection (a)—

''(A) IN GENERAL.—The energy efficient residential rental building property deduction determined under this subsection is an amount equal to energy efficient residential rental building property expenditures made by a taxpayer for the taxable year.

''(B) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient residential rental building property expenditures taken into account under subparagraph (A) with respect to each dwelling unit shall not exceed the amount specified in the following table:

''In the case of:	**Deduction amount:**
30-percent property	$600
50-percent property	$1,500.

''(C) YEAR DEDUCTION ALLOWED.—The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction, reconstruction, erection, or rehabilitation of the property is completed.

''(2) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY EXPENDITURES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'energy efficient residential rental building property expenditures' means an amount paid or incurred in connection with construction, reconstruction, erection, or rehabilitation of energy efficient residential rental building property—

''(i) for which depreciation is allowable under section 167,

''(ii) which is located in the United States, and

''(iii) the construction, reconstruction, erection, or rehabilitation of which is completed by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(B) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY.—

''(i) IN GENERAL.—The term 'energy efficient residential rental building property' means any property which reduces total annual energy and power costs with

respect to heating and cooling of the building by at least 50 percent in the case of 50-percent property or at least 30 percent in the case of 30-percent property in comparison to the projected energy cost of such property without such expenditures. Such comparison shall be made using the procedures under clause (ii).

''(ii) PROCEDURES.—

''(I) IN GENERAL.—For purposes of clause (i), energy usage and costs shall be demonstrated either by component-based compliance or performance-based compliance.

''(II) COMPONENT-BASED COMPLIANCE.—Component-based compliance shall be demonstrated if all of the components of the dwelling unit comply with the requirements of prescriptive packages established by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, such that the buildings which use such approach achieve energy cost reductions

equivalent to the results of using performance-based compliance under subclause (III).

''(III) PERFORMANCE-BASED COMPLIANCE.—Performance-based compliance shall be demonstrated if the 30 percent or 50 percent energy cost savings for heating and cooling, as applicable, are met with respect to a dwelling unit when compared to the original condition of the dwelling unit.

''(IV) COMPUTER SOFTWARE.—Computer software shall be used in support of performance-based compliance under subclause (III) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

"(V) CALCULATION REQUIREMENTS.—In calculating tradeoffs and energy performance, the regulations prescribed under this clause shall prescribe for the taxable year the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. Where a State has developed annual energy usage and cost reduction procedures based on time of usage costs for use in the performance standards of the State's building energy code prior to the effective date of this section, the State may use those annual energy usage and cost reduction procedures in lieu of those adopted by the Secretary.

"(VI) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary shall approve software submissions which comply with the requirements of subclause (IV).

"(VII) PROCEDURES FOR INSPECTION AND TESTING OF HOMES.—The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under subclause (IV) of this clause and clause (iv).

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

"(iv) COMPLIANCE.—

"(I) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish re-

quirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

''(II) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy rating systems organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this subsection.

''(C) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient residential rental building property which is public property, the Secretary shall promulgate a regulation to allow the allocation of the

deduction to the person primarily responsible for designing the improvements to the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

''(g) SPECIAL RULES.—For purposes of this section—

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

''(2) DOUBLE BENEFIT.—Property which would, but for this paragraph, be eligible for deduction under more than one provision of this section shall be eligible only under one such provision, the provision specified by the taxpayer.

''(h) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(i) TERMINATION.—This section shall not apply with respect to—

''(1) any energy property placed in service after December 31, 2008 (December 31, 2005, in the case of Tier I energy-efficient building property),

''(2) any energy efficient commercial building property expenditures in connection with property—

''(A) the plans for which are not certified under subsection (e)(6) on or before December 31, 2008, and

''(B) the construction, reconstruction, or erection of which is not completed on or before December 31, 2010, and

''(3) any energy efficient residential rental building property expenditures in connection with property—

''(A) placed in service after December 31, 2008, or

''(B) the construction, reconstruction, erection, or rehabilitation of which is not completed on or before December 31, 2008.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 48(a)(3)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(A) which is equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section

613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage,''.

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

(A) in clause (vi)(I)—

(i) by striking ''section 48(a)(3)'' and inserting ''section 199(d)(1)'', and

(ii) by striking ''clause (i)'' and inserting ''such subparagraph (A)'', and

(B) in the last sentence, by striking ''section 48(a)(3)'' and inserting ''section 199(c)(3)''.

(3) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by inserting the following new paragraph:

''(29) for amounts allowed as a deduction under section 199(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 199. Energy property deduction.''.

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

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 3. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

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

"(i) in the case of a 30-percent home, $600, and

"(ii) in the case of a 50-percent home, $2,000.

"(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

"(i) 30-PERCENT HOME.—The term '30-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of the standard design reference home.

"(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than the annual level of heating and cooling energy

consumption of the standard design reference home.

''(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to such home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the qualifying new home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

''(2) ENERGY EFFICIENT PROPERTY.—

''(A) IN GENERAL.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment, and any other materials and systems which are specifically designed to reduce heat loss or gain or the heating or cooling energy use of a dwelling, which can, individually or in combination with other components, meet the requirements of this section.

''(B) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(i) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

"(ii) exterior windows (including skylights) and doors.

"(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a dwelling—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) the first use of which after construction is as a principal residence (within the meaning of section 121, determined without regard to ownership).

"(4) STANDARD DESIGN REFERENCE HOME.—The term 'standard design reference home' means a dwelling which conforms with the standards of chapter 4 of the 2000 International Energy Conservation Code of the International Code Council and the minimum equipment efficiency standards promulgated by the Department of Energy under the National Appliance Energy Conservation Act.

''(5) ENERGY EFFICIENT REFERENCE HOME.—The term 'energy efficient reference home' means a design of a dwelling which uses the same heating fuel type as the proposed design, as required by the Department of Energy under the National Appliance Energy Conservation Act and which achieves, on average over fuel type and home geometry, the required 30 percent or 50 percent reductions in annual energy cost as calculated using the procedures under subsection (d)(1)(C)(i).

''(6) CONSTRUCTION.—The term 'construction' includes reconstruction, erection, and rehabilitation.

''(7) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

''(B) COMPONENT-BASED METHOD.—A component-based method is a method in which

compliance is achieved when all of the components of the home comply with the requirements of prescriptive packages using the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance (when modeled with 50 percent of the windows of such packages facing west, 25 percent facing east, 12.5 percent facing south, and 12.5 percent facing north) to properties which qualify under subparagraph (C).

''(C) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to an energy efficient reference home—

''(I) heated by the same fuel type, and

''(II) constructed in accordance with the requirements for the applicable 30 percent or 50 percent energy efficient reference home.

''(ii) COMPUTER SOFTWARE.—

''(I) IN GENERAL.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(II) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary shall approve software submissions which comply with the calculation requirements of subclause (I).

''(iii) PROCEDURES FOR INSPECTION AND TESTING OF HOMES.—The Secretary

shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under this section.

''(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of the qualifying new home.

''(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated en-

ergy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements of the 2001 California Residential Alternative Calculation Method Approval Manual, shall prescribe procedures for calculating annual energy usage and cost re-

ductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide for fuel parity in the case of both the component-based and the performance-based approaches, and any software used in support of either such approach,

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer, and

''(iii) establish the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, dependent on time of usage.

''(B) FUEL PARITY.—For purposes of subparagraph (A)(i), the Secretary shall assure fuel parity by requiring both the energy efficient reference home and the prescriptive package under paragraph (1) to employ the same envelope energy efficiency measures for a home heated by a gas furnace as for a home heated by an electric air source heat pump or by an oil

furnace or boiler; and, for equipment efficiency, to employ electric, oil, or gas equipment efficiency of corresponding efficiency improvement. Such determination of corresponding efficiency improvement shall be made on a linear scale between the minimum standard equipment efficiency and the best available marketplace technology efficiency as determined by the Secretary based upon the information provided by the Air Conditioning and Refrigeration Institute (ARI) and the Gas Appliance Manufacturers Association (GAMA) guides for the respective electric, oil, and natural gas equipment of such type (such as heating and cooling). For homes heated electrically, the baseline of the linear scale shall be the latest NAECA minimum efficiency required for air-source heat pumps. For homes heated by direct combustion fossil fuels, the baseline of the linear scale shall be the latest NAECA minimum efficiency for furnaces.

''(C) TIME OF USAGE.—For purposes of subparagraph (A)(iii), time of usage costs shall be determined based on regional or State utility and fuel costs. Where a State has developed an-

nual energy usage and cost reduction procedures based on time of usage costs for use in the performance standards of the State's building energy code prior to the effective date of this section, the State may use those annual energy usage and cost reduction procedures in lieu of those adopted by the Secretary.

''(D) PROVIDERS.—For purposes of paragraph (2), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards. The Secretary shall qualify an independent home energy rating system organization, a local building code agency, a State or local energy office, a utility, a manufactured home production inspection agency (IPIA), or any other organization which meets the requirements prescribed under this section.

''(E) DETERMINATIONS OF COMPLIANCE.—A determination of compliance with respect to energy efficient property made for the purposes of this subsection shall be filed with the Secretary not later than 1 year after the

date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

''(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2005, for 30-percent homes and December 31, 2008, for 50-percent homes.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the new energy efficient home credit determined under section 45G(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of the Internal Revenue Code of 1986 (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).''.

(d) LIMITATION ON CARRYBACK.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of section 45G.''.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) of the Internal Revenue Code of 1986 (defining qualified business credit) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the new energy efficient home credit determined under section 45G(a).''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45G. New energy efficient home credit.''.

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

SEC. 4. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

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

''SEC. 25C. NONBUSINESS ENERGY PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

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

''(2) so much of the credit amount specified in the following table which does not exceed the expenditures made by the taxpayer in connection with the construction, reconstruction, erection, or rehabilitation of a dwelling unit of the taxpayer which results in the unit being a highly energy-efficient principal residence:

''Highly energy-efficient principal residence:	**Credit amount:**
30-percent property	$200
50-percent property	$500.

For purposes of paragraph (2), the expenditures may include labor costs properly allocable to the onsite preparation, assembly, or original installation of such property.

''(b) AMOUNT FOR QUALIFIED ENERGY PROPERTY.—

''(1) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—Except as provided in paragraph (2), the amount determined under this subsection for the taxable year for each item of qualified energy property shall equal the amount of residential energy property expenditures made by the taxpayer with respect to such property during such taxable year.

''(2) SOLAR HOT WATER PROPERTY; PHOTOVOLTAIC PROPERTY.—

''(A) IN GENERAL.—In the case of solar hot water property and photovoltaic property,

the amount determined under this subsection for the taxable year shall equal the amount specified for such property in the following table:

Description of property:	Allowable amount is:
Elected solar hot water property	35¢ per each kwh/year of savings.
Photovoltaic property	$1.50 per peak watt.

''(B) ELECTED SOLAR HOT WATER PROPERTY.—In the case of elected solar hot water property (as defined in section 199(d)(1)(B)), the taxpayer may elect to substitute '$7 per annual Therm of natural gas savings' for '35¢ per each kwh/year of savings' in the table contained in subparagraph (A).

''(3) MAXIMUM AMOUNT.—In the case of property described in the following table, the amount of expenditures taken into account under paragraph (1) and the amount determined under paragraph (2) for the taxable year for each item of qualified energy property with respect to a dwelling unit shall not exceed the amount specified for such property in such table:

"Description of property item:	Maximum allowable credit amount is:
Tier 2 energy-efficient building property	$300.
Advanced main air circulating fan	$50.

"Description of property item:	Maximum allowable credit amount is:
Tier 1 energy-efficient building property (other than an advanced main air circulating fan).	$150.
Solar hot water property	$1,000.
Photovoltaic property	$6,000.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—The term 'residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property installed on or in connection with a dwelling unit which—

''(A) is located in the United States, and

''(B) is used as a principal residence.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(2) QUALIFIED ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy property' means—

''(i) energy-efficient building property,

''(ii) solar hot water property, and

''(iii) photovoltaic property.

''(B) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM; SOLAR PANELS.—For purposes of this paragraph, the provisions of sub-

paragraphs (D) and (E) section 199(d)(1) shall apply.

''(C) REQUIRED STANDARDS.—Property described under subparagraph (A) shall meet the performance and quality standards and certification standards of paragraphs (1)(D) and (2) of section 199(c).

''(3) ENERGY-EFFICIENT BUILDING PROPERTY.—The term 'energy-efficient building property' has the same meaning given the terms 'Tier 2 energy-efficient property', 'Tier 1 energy-efficient property', and 'advanced main air circulating fan' in paragraphs (2), (3), and (4) of section 199(d), respectively.

''(4) SOLAR HOT WATER PROPERTY.—The term 'solar hot water property' means property which, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within such structure and the performance of which is determined in accordance with section 199(c)(2)(A).

''(5) PHOTOVOLTAIC PROPERTY.—The term 'photovoltaic property' has the same meaning given such term in section 199(d)(1)(C).

''(6) HIGHLY ENERGY-EFFICIENT PRINCIPAL RESIDENCE.—

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

''(i) such property is located in the United States,

''(ii) the property is used as a principal residence, and

''(iii) such property is certified as being 50-percent property or 30-percent property.

''(B) PRINCIPAL RESIDENCE.—

''(i) IN GENERAL.—The term 'principal residence' has the same meaning as when used in section 121, except that—

''(I) no ownership requirement shall be imposed, and

''(II) the period for which a building is treated as used as a principal residence shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph) first be treated as used as a principal residence.

"(ii) MANUFACTURED HOUSING.—The term 'residence' shall include a dwelling unit which is a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(C) 50- OR 30-PERCENT PROPERTY.—

"(i) IN GENERAL.—For purposes of subparagraph (A), property is 50-percent property or 30-percent property if the projected heating and cooling energy usage of such property, measured in terms of average annual energy cost to taxpayer, is reduced by 50 percent, or 30 percent, respectively, in comparison to the energy cost of such property if expenditures made by the taxpayer with respect to energy efficient improvements to such property were not made. Such comparison shall be determined using the procedures under clause (ii).

"(ii) PROCEDURES.—

"(I) IN GENERAL.—For purposes of clause (i), energy usage shall be demonstrated either by component-

based compliance or performance-based compliance.

''(II) COMPONENT-BASED COMPLIANCE.—Component-based compliance shall be demonstrated if all of the components of the dwelling unit comply with the requirements of prescriptive packages established by the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, such that the buildings which use this method achieve energy cost reductions equivalent to the results using the performance-based compliance method under subclause (III).

''(III) PERFORMANCE-BASED COMPLIANCE.—Performance-based compliance shall be demonstrated if the 30 percent or the 50 percent energy cost savings for heating and cooling, as applicable, are met with respect to a dwelling unit when compared to the original condition of the dwelling unit.

''(IV) COMPUTER SOFTWARE.—Computer software shall be used in support of performance-based compliance under subclause (III) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(V) CALCULATION REQUIREMENTS.—In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost reduction procedures based on time of usage costs for use in the performance

standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost reduction procedures in lieu of those adopted by the Secretary.

''(VI) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary shall approve software submissions which comply with the calculation requirements of subclause (IV).

''(VII) PROCEDURES FOR INSPECTION AND TESTING OF DWELLING UNITS.—The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under subclause (IV) and subsection (d)(2).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) DETERMINATIONS OF COMPLIANCE.—A determination of compliance made for the purposes of this section shall be filed with the Secretary within 1 year of the date of such determination and shall

include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

''(2) COMPLIANCE.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

''(B) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy rating systems organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

''(3) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which if jointly occupied and used during any calendar year as a principal residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in sec-

tion 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation and such credit shall be allocated pro rata to such individual.

''(5) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association and any credit shall be allocated appropriately.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as principal residences.

''(6) JOINT OWNERSHIP OF ENERGY ITEMS.—

''(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure under this

section shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

''(7) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(8) COORDINATION WITH OTHER CREDITS.—Property which would, but for this paragraph, be eligible for credit under more than one provision of this section shall be eligible only under one such provision, the provision specified by the taxpayer.

''(9) YEAR CREDIT ALLOWED.—The credit under subsection (a)(2) shall be allowed in the taxable year in which the principal residence is certified as 50-percent property or 30-percent property.

''(10) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

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

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction of a structure, such expenditure shall be treated as made when the original use of the constructed structure by the taxpayer begins.

''(11) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

''(A) REDUCTION OF EXPENDITURES.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), for purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

''(ii) SUBSIDIZED ENERGY FINANCING.—For purposes of clause (i), the term 'subsidized energy financing' has the same

meaning given such term in section 48(a)(4)(C).

''(B) DOLLAR LIMITS REDUCED.—The dollar amounts in the table contained in subsection (b)(3) with respect to each property purchased for such dwelling unit for any taxable year of such taxpayer shall be reduced proportionately by an amount equal to the sum of—

''(i) the amount of the expenditures made by the taxpayer during such taxable year with respect to such dwelling unit and not taken into account by reason of subparagraph (A), and

''(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year which is used to make residential energy property expenditures with respect to the dwelling unit and is not included in the gross income of such taxpayer.

''(C) EXCEPTION FOR STATE PROGRAMS.—Subparagraphs (A) and (B) shall not apply to expenditures made with respect to property for which the taxpayer has received a loan, State

tax credit, or grant under any State energy program.

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(g) TERMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply with respect to any taxable years beginning after December 31, 2008.

''(2) TIER 1 ENERGY-EFFICIENT BUILDING PROPERTY EXPENDITURES.—This section shall not apply to expenditures for tier 1 energy-efficient building property in taxable years beginning after December 31, 2005.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 of the Internal Revenue Code of 1986 as amended by section 1(b)(3), is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

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

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

''Sec. 25C. Nonbusiness energy property.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures made after December 31, 2002.

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

by this section shall apply to expenditures made after March 31, 2003.

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