

109TH CONGRESS  
1ST SESSION

# S. 680

To provide for various energy efficiency programs and tax incentives, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 2005

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

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## A BILL

To provide for various energy efficiency programs and tax incentives, 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 “Efficient Energy Through Certified Technologies and  
6 Electricity Reliability (EFFECTER) Act of 2005”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TAX INCENTIVES

- Sec. 101. Energy efficient commercial buildings deduction.
- Sec. 102. Credit for construction of new energy efficient homes.
- Sec. 103. Incentive for certain energy efficient property used in business.
- Sec. 104. Credit for certain nonbusiness energy property.
- Sec. 105. Energy credit for combined heat and power system property.

#### TITLE II—ENERGY EFFICIENT PRODUCTS

- Sec. 201. Energy conservation standards for additional products.
- Sec. 202. Energy labeling.
- Sec. 203. Commercial package air conditioning and heating equipment.
- Sec. 204. Commercial refrigerators, freezers, and refrigerator-freezers.

#### TITLE III—ENERGY EFFICIENT FEDERAL PROGRAMS

- Sec. 301. Procurement of energy efficient products.
- Sec. 302. Energy savings performance contracts.
- Sec. 303. Federal building performance standards.

#### TITLE IV—PUBLIC HOUSING

- Sec. 401. Public housing capital fund.
- Sec. 402. Grants for energy-conserving improvements for assisted housing.
- Sec. 403. Energy-efficient appliances.
- Sec. 404. Energy efficiency standards.

#### TITLE V—RELIABILITY STANDARDS

- Sec. 501. Electric reliability standards.

## 1           **TITLE I—TAX INCENTIVES**

### 2   **SEC. 101. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-** 3                           **DUCTION.**

4           (a) IN GENERAL.—Part VI of subchapter B of chap-  
 5 ter 1 of the Internal Revenue Code of 1986 (relating to  
 6 itemized deductions for individuals and corporations) is  
 7 amended by inserting after section 179B the following new  
 8 section:

### 9   **“SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS** 10                           **DEDUCTION.**

11           “(a) IN GENERAL.—There shall be allowed as a de-  
 12 duction an amount equal to the cost of energy efficient

1 commercial building property placed in service during the  
2 taxable year.

3 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The de-  
4 duction under subsection (a) with respect to any building  
5 for the taxable year and all prior taxable years shall not  
6 exceed an amount equal to the product of—

7 “(1) \$2.25, and

8 “(2) the square footage of the building.

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

10 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-  
11 ING PROPERTY.—The term ‘energy efficient commer-  
12 cial building property’ means property—

13 “(A) which is installed on or in any build-  
14 ing located in the United States,

15 “(B) which is installed as part of—

16 “(i) the interior lighting systems,

17 “(ii) the heating, cooling, ventilation,  
18 and hot water systems, or

19 “(iii) the building envelope, and

20 “(C) which is certified in accordance with  
21 subsection (d)(6) as being installed as part of  
22 a plan designed to reduce the total annual en-  
23 ergy and power costs with respect to the inte-  
24 rior lighting systems, heating, cooling, ventila-  
25 tion, and hot water systems of the building by

1           50 percent or more in comparison to a ref-  
2           erence building which meets the minimum re-  
3           quirements of Standard 90.1–2001 using meth-  
4           ods of calculation under subsection (d)(2).

5           A building described in subparagraph (A) may in-  
6           clude any residential rental property, including any  
7           low-rise multifamily structure or single family hous-  
8           ing property which is not within the scope of Stand-  
9           ard 90.1–2001, but shall not include any qualified  
10          new energy efficient home (within the meaning of  
11          section 45J(d)(3)) for which a credit under section  
12          45J has been allowed.

13           “(2) STANDARD 90.1–2001.—The term ‘Stand-  
14          ard 90.1–2001’ means Standard 90.1–2001 of the  
15          American Society of Heating, Refrigerating, and Air  
16          Conditioning Engineers and the Illuminating Engi-  
17          neering Society of North America (as in effect on  
18          April 2, 2003).

19          “(d) SPECIAL RULES.—

20           “(1) PARTIAL ALLOWANCE.—

21           “(A) IN GENERAL.—Except as provided in  
22          subsection (f), if—

23           “(i) the requirement of subsection  
24          (c)(1)(C) is not met, but

1           “(ii) there is a certification in accord-  
2           ance with paragraph (6) that any system  
3           referred to in subsection (c)(1)(B) satisfies  
4           the energy-savings targets established by  
5           the Secretary under subparagraph (B)  
6           with respect to such system,  
7           then the requirement of subsection (c)(1)(C)  
8           shall be treated as met with respect to such sys-  
9           tem, and the deduction under subsection (a)  
10          shall be allowed with respect to energy efficient  
11          commercial building property installed as part  
12          of such system and as part of a plan to meet  
13          such targets, except that subsection (b) shall be  
14          applied to such property by substituting ‘\$.75’  
15          for ‘\$2.25’.

16           “(B) REGULATIONS.—The Secretary, after  
17          consultation with the Secretary of Energy, shall  
18          establish a target for each system described in  
19          subsection (c)(1)(B) which, if such targets were  
20          met for all such systems, the building would  
21          meet the requirements of subsection (c)(1)(C).

22           “(2) METHODS OF CALCULATION.—The Sec-  
23          retary, after consultation with the Secretary of En-  
24          ergy, shall promulgate regulations which describe in  
25          detail methods for calculating and verifying energy

1 and power consumption and cost, based on the pro-  
2 visions of the 2005 California Nonresidential Alter-  
3 native Calculation Method Approval Manual or, in  
4 the case of residential property, the 2005 California  
5 Residential Alternative Calculation Method Approval  
6 Manual. These regulations shall meet the following  
7 requirements:

8 “(A) In calculating tradeoffs and energy  
9 performance, the regulations shall prescribe the  
10 costs per unit of energy and power, such as kil-  
11 owatt hour, kilowatt, gallon of fuel oil, and  
12 cubic foot or Btu of natural gas, which may be  
13 dependent on time of usage. If a State has de-  
14 veloped annual energy usage and cost calcula-  
15 tion procedures based on time of usage costs for  
16 use in the performance standards of the State’s  
17 building energy code before the effective date of  
18 this section, the State may use those annual en-  
19 ergy usage and cost calculation procedures in  
20 lieu of those adopted by the Secretary.

21 “(B) The calculation methods under this  
22 paragraph need not comply fully with section  
23 11 of Standard 90.1–2001.

24 “(C) The calculation methods shall be fuel  
25 neutral, such that the same energy efficiency

1 features shall qualify a building for the deduc-  
2 tion under this section regardless of whether  
3 the heating source is a gas or oil furnace or an  
4 electric heat pump. The reference building for  
5 a proposed design which employs electric resist-  
6 ance heating shall be modeled as using a heat  
7 pump.

8 “(D) The calculation methods shall provide  
9 appropriate calculated energy savings for design  
10 methods and technologies not otherwise credited  
11 in either Standard 90.1–2001 or in the 2005  
12 California Nonresidential Alternative Calcula-  
13 tion Method Approval Manual, including the  
14 following:

15 “(i) Natural ventilation.

16 “(ii) Evaporative cooling.

17 “(iii) Automatic lighting controls such  
18 as occupancy sensors, photocells, and time-  
19 clocks.

20 “(iv) Daylighting.

21 “(v) Designs utilizing semi-condi-  
22 tioned spaces which maintain adequate  
23 comfort conditions without air conditioning  
24 or without heating.

1           “(vi) Improved fan system efficiency,  
2 including reductions in static pressure.

3           “(vii) Advanced unloading mecha-  
4 nisms for mechanical cooling, such as mul-  
5 tiple or variable speed compressors.

6           “(viii) The calculation methods may  
7 take into account the extent of commis-  
8 sioning in the building, and allow the tax-  
9 payer to take into account measured per-  
10 formance which exceeds typical perform-  
11 ance.

12           “(ix) On-site generation of electricity,  
13 including combined heat and power sys-  
14 tems, fuel cells, and renewable energy gen-  
15 eration such as solar energy.

16           “(x) Wiring with lower energy losses  
17 than wiring satisfying Standard 90.1–2001  
18 requirements for building power distribu-  
19 tion systems.

20           “(3) COMPUTER SOFTWARE.—

21           “(A) IN GENERAL.—Any calculation under  
22 paragraph (2) shall be prepared by qualified  
23 computer software.

1           “(B) QUALIFIED COMPUTER SOFTWARE.—

2           For purposes of this paragraph, the term

3           ‘qualified computer software’ means software—

4                   “(i) for which the software designer

5                   has certified that the software meets all

6                   procedures and detailed methods for calcu-

7                   lating energy and power consumption and

8                   costs as required by the Secretary,

9                   “(ii) which provides such forms as re-

10                  quired to be filed by the Secretary in con-

11                  nection with energy efficiency of property

12                  and the deduction allowed under this sec-

13                  tion, and

14                  “(iii) which provides a notice form

15                  which documents the energy efficiency fea-

16                  tures of the building and its projected an-

17                  nual energy costs.

18           “(4) ALLOCATION OF DEDUCTION FOR PUBLIC

19           PROPERTY.—In the case of energy efficient commer-

20           cial building property installed on or in public prop-

21           erty, the Secretary shall promulgate a regulation to

22           allow the allocation of the deduction to the person

23           primarily responsible for designing the property in

24           lieu of the public entity which is the owner of such

1 property. Such person shall be treated as the tax-  
2 payer for purposes of this section.

3 “(5) NOTICE TO OWNER.—Each certification  
4 required under this section shall include an expla-  
5 nation to the building owner regarding the energy  
6 efficiency features of the building and its projected  
7 annual energy costs as provided in the notice under  
8 paragraph (3)(B)(iii).

9 “(6) CERTIFICATION.—

10 “(A) IN GENERAL.—The Secretary shall  
11 prescribe the manner and method for the mak-  
12 ing of certifications under this section.

13 “(B) PROCEDURES.—The Secretary shall  
14 include as part of the certification process pro-  
15 cedures for inspection and testing by qualified  
16 individuals described in subparagraph (C) to  
17 ensure compliance of buildings with energy-sav-  
18 ings plans and targets. Such procedures shall  
19 be comparable, given the difference between  
20 commercial and residential buildings, to the re-  
21 quirements in the Mortgage Industry National  
22 Accreditation Procedures for Home Energy  
23 Rating Systems.

24 “(C) QUALIFIED INDIVIDUALS.—Individ-  
25 uals qualified to determine compliance shall be

1           only those individuals who are recognized by an  
2           organization certified by the Secretary for such  
3           purposes.

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

9           “(f) INTERIM RULES FOR LIGHTING SYSTEMS.—  
10 Until such time as the Secretary issues final regulations  
11 under subsection (d)(1)(B) with respect to property which  
12 is part of a lighting system—

13           “(1) IN GENERAL.—The lighting system target  
14 under subsection (d)(1)(A)(ii) shall be a reduction in  
15 lighting power density of 25 percent (50 percent in  
16 the case of a warehouse) of the minimum require-  
17 ments in Table 9.3.1.1 or Table 9.3.1.2 (not includ-  
18 ing additional interior lighting power allowances) of  
19 Standard 90.1–2001.

20           “(2) REDUCTION IN DEDUCTION IF REDUCTION  
21 LESS THAN 40 PERCENT.—

22           “(A) IN GENERAL.—If, with respect to the  
23 lighting system of any building other than a  
24 warehouse, the reduction in lighting power den-  
25 sity of the lighting system is not at least 40

1 percent, only the applicable percentage of the  
2 amount of deduction otherwise allowable under  
3 this section with respect to such property shall  
4 be allowed.

5 “(B) APPLICABLE PERCENTAGE.—For  
6 purposes of subparagraph (A), the applicable  
7 percentage is the number of percentage points  
8 (not greater than 100) equal to the sum of—

9 “(i) 50, and

10 “(ii) the amount which bears the same  
11 ratio to 50 as the excess of the reduction  
12 of lighting power density of the lighting  
13 system over 25 percentage points bears to  
14 15.

15 “(C) EXCEPTIONS.—This subsection shall  
16 not apply to any system—

17 “(i) the controls and circuiting of  
18 which do not comply fully with the manda-  
19 tory and prescriptive requirements of  
20 Standard 90.1–2001 and which do not in-  
21 clude provision for bilevel switching in all  
22 occupancies except hotel and motel guest  
23 rooms, store rooms, restrooms, and public  
24 lobbies, or

1                   “(ii) which does not meet the min-  
2                   imum requirements for calculated lighting  
3                   levels as set forth in the Illuminating Engi-  
4                   neering Society of North America Lighting  
5                   Handbook, Performance and Application,  
6                   Ninth Edition, 2000.

7           “(g) COORDINATION WITH OTHER TAX BENE-  
8   FITS.—

9                   “(1) NO DOUBLE BENEFIT.—No deduction  
10                  shall be allowed under subsection (a) with respect to  
11                  any building for which a credit under section 45J  
12                  has been allowed.

13                  “(2) SPECIAL RULE WITH RESPECT TO BUILD-  
14                  INGS WITH ENERGY EFFICIENT PROPERTY.—In any  
15                  case in which a deduction under section 200 or a  
16                  credit under section 25C has been allowed with re-  
17                  spect to property in connection with a building, the  
18                  annual energy and power costs of the reference  
19                  building referred to in subsection (c)(1)(C) shall be  
20                  determined assuming such reference building con-  
21                  tains the property for which such deduction or credit  
22                  has been allowed.

23                  “(h) REGULATIONS.—The Secretary shall promul-  
24                  gate such regulations as necessary—

1           “(1) to take into account new technologies re-  
2           garding energy efficiency and renewable energy for  
3           purposes of determining energy efficiency and sav-  
4           ings under this section, and

5           “(2) to provide for a recapture of the deduction  
6           allowed under this section if the plan described in  
7           subsection (e)(1)(C) or (d)(1)(A) is not fully imple-  
8           mented.

9           “(i) TERMINATION.—This section shall not apply  
10          with respect to property placed in service after December  
11          31, 2010.”.

12          (b) CONFORMING AMENDMENTS.—

13                 (1) Section 1016(a) of the Internal Revenue  
14                 Code of 1986 is amended by striking “and” at the  
15                 end of paragraph (30), by striking the period at the  
16                 end of paragraph (31) and inserting “, and”, and by  
17                 adding at the end the following new paragraph:

18                         “(32) to the extent provided in section  
19                         179C(e).”.

20                 (2) Section 1245(a) of such Code is amended  
21                 by inserting “179C,” after “179B,” both places it  
22                 appears in paragraphs (2)(C) and (3)(C).

23                 (3) Section 1250(b)(3) of such Code is amend-  
24                 ed by inserting before the period at the end of the  
25                 first sentence “or by section 179C”.

1           (4) Section 263(a)(1) of such Code is amended  
2           by striking “or” at the end of subparagraph (H), by  
3           striking the period at the end of subparagraph (I)  
4           and inserting “, or”, and by inserting after subpara-  
5           graph (I) the following new subparagraph:

6                     “(J) expenditures for which a deduction is  
7                     allowed under section 179C.”.

8           (5) Section 312(k)(3)(B) of such Code is  
9           amended by striking “section 179, 179A, or 179B”  
10          each place it appears in the heading and text and in-  
11          serting “section 179, 179A, 179B, or 179C”.

12          (c) CLERICAL AMENDMENT.—The table of sections  
13          for part VI of subchapter B of chapter 1 of the Internal  
14          Revenue Code of 1986 is amended by inserting after sec-  
15          tion 179B the following new item:

                          “Sec. 179C. Energy efficient commercial buildings deduction.”.

16          (d) EFFECTIVE DATE.—The amendments made by  
17          this section shall apply to property placed in service after  
18          the date of the enactment of this Act in taxable years end-  
19          ing after such date.

20          **SEC. 102. CREDIT FOR CONSTRUCTION OF NEW ENERGY EF-**  
21                           **FICIENT HOMES.**

22          (a) IN GENERAL.—Subpart D of part IV of sub-  
23          chapter A of chapter 1 of the Internal Revenue Code of  
24          1986 (relating to business related credits) is amended by  
25          adding at the end the following new section:

1 **“SEC. 45J. NEW ENERGY EFFICIENT HOME CREDIT.**

2       “(a) IN GENERAL.—For purposes of section 38, in  
3 the case of an eligible contractor with respect to a quali-  
4 fied new energy efficient home, the credit determined  
5 under this section for the taxable year with respect to such  
6 home is an amount equal to the aggregate adjusted bases  
7 of all energy efficient property installed in such home dur-  
8 ing construction of such home.

9       “(b) LIMITATIONS.—

10           “(1) MAXIMUM CREDIT.—

11                   “(A) IN GENERAL.—The credit allowed by  
12 this section with respect to a dwelling unit shall  
13 not exceed—

14                           “(i) in the case of a dwelling unit de-  
15 scribed in clause (i) or (iii) of subsection  
16 (c)(3)(C), \$1,000, and

17                           “(ii) in the case of a dwelling unit de-  
18 scribed in clause (ii) or (iv) of subsection  
19 (c)(3)(C), \$2,000.

20                   “(B) PRIOR CREDIT AMOUNTS ON SAME  
21 DWELLING UNIT TAKEN INTO ACCOUNT.—If a  
22 credit was allowed under subsection (a) with re-  
23 spect to a dwelling unit in 1 or more prior tax-  
24 able years, the amount of the credit otherwise  
25 allowable for the taxable year with respect to  
26 such dwelling unit shall be reduced by the sum

1 of the credits allowed under subsection (a) with  
2 respect to the dwelling unit for all prior taxable  
3 years.

4 “(2) COORDINATION WITH CERTAIN CREDITS.—  
5 For purposes of this section—

6 “(A) the basis of any property referred to  
7 in subsection (a) shall be reduced by that por-  
8 tion of the basis of any property which is attrib-  
9 utable to qualified rehabilitation expenditures  
10 (as defined in section 47(c)(2)) or to the energy  
11 percentage of energy property (as determined  
12 under section 48(a)), and

13 “(B) expenditures taken into account  
14 under section 47 or 48(a) shall not be taken  
15 into account under this section.

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

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

19 “(A) the person who constructed the quali-  
20 fied new energy efficient home, or

21 “(B) in the case of a qualified new energy  
22 efficient home which is a manufactured home,  
23 the manufactured home producer of such home.

24 If more than 1 person is described in subparagraph  
25 (A) or (B) with respect to any qualified new energy

1 efficient home, such term means the person des-  
2 ignated as such by the owner of such home.

3 “(2) ENERGY EFFICIENT PROPERTY.—The  
4 term ‘energy efficient property’ means any energy  
5 efficient building envelope component, and any en-  
6 ergy efficient heating or cooling equipment or sys-  
7 tem, which can, individually or in combination with  
8 other components, result in a dwelling unit meeting  
9 the requirements of this section.

10 “(3) QUALIFIED NEW ENERGY EFFICIENT  
11 HOME.—The term ‘qualified new energy efficient  
12 home’ means a dwelling unit—

13 “(A) located in the United States,

14 “(B) the construction of which is substan-  
15 tially completed after the date of the enactment  
16 of this section, and

17 “(C) which is—

18 “(i) certified to have a level of annual  
19 heating and cooling energy consumption  
20 which is at least 30 percent below the an-  
21 nual level of heating and cooling energy  
22 consumption of a comparable dwelling unit  
23 constructed in accordance with the stand-  
24 ards of chapter 4 of the 2003 International  
25 Energy Conservation Code, as such Code

1 (including supplements) is in effect on the  
2 date of the enactment of this section, and  
3 for which the heating and cooling equip-  
4 ment efficiencies correspond to the min-  
5 imum allowed under the regulations estab-  
6 lished by the Department of Energy pursu-  
7 ant to the National Appliance Energy Con-  
8 servation Act of 1987 and in effect at the  
9 time of construction, and to have building  
10 envelope component improvements account  
11 for at least  $\frac{1}{3}$  of such 30 percent,

12 “(ii) certified to have a level of annual  
13 heating and cooling energy consumption  
14 which is at least 50 percent below such an-  
15 nual level and to have building envelope  
16 component improvements account for at  
17 least  $\frac{1}{5}$  of such 50 percent,

18 “(iii) a manufactured home which  
19 meets the requirements of clause (i) and  
20 which conforms to Federal Manufactured  
21 Home Construction and Safety Standards  
22 (section 3280 of title 24, Code of Federal  
23 Regulations), or

24 “(iv) a manufactured home which  
25 meets the requirements of clause (ii) and

1           which conforms to Federal Manufactured  
2           Home Construction and Safety Standards  
3           (section 3280 of title 24, Code of Federal  
4           Regulations).

5           “(4) CONSTRUCTION.—The term ‘construction’  
6           includes substantial reconstruction and rehabilita-  
7           tion.

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

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

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

18               “(B) exterior windows (including sky-  
19               lights),

20               “(C) exterior doors, and

21               “(D) any metal roof installed on a dwelling  
22               unit, but only if such roof has appropriate pig-  
23               mented coatings which—

1                   “(i) are specifically and primarily de-  
2                   signed to reduce the heat gain of such  
3                   dwelling unit, and

4                   “(ii) meet the Energy Star program  
5                   requirements.

6           “(d) CERTIFICATION.—

7                   “(1) METHOD OF CERTIFICATION.—A certifi-  
8                   cation described in subsection (c)(3)(C) shall be de-  
9                   termined in accordance with guidance prescribed by  
10                  the Secretary, after consultation with the Secretary  
11                  of Energy. Such guidance shall specify procedures  
12                  and methods for calculating energy and cost savings.

13                  “(2) FORM.—A certification described in sub-  
14                  section (c)(3)(C) shall be made in writing in a man-  
15                  ner which specifies in readily verifiable fashion the  
16                  energy efficient building envelope components and  
17                  energy efficient heating or cooling equipment in-  
18                  stalled and their respective rated energy efficiency  
19                  performance.

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

1       “(f) SPECIAL RULE WITH RESPECT TO BUILDINGS  
2 WITH ENERGY EFFICIENT PROPERTY.—In any case in  
3 which a deduction under section 200 or a credit under sec-  
4 tion 25C has been allowed with respect to property in con-  
5 nection with a dwelling unit, the level of annual heating  
6 and cooling energy consumption of the comparable dwell-  
7 ing unit referred to in clauses (i) and (ii) of subsection  
8 (c)(3)(C) shall be determined assuming such comparable  
9 dwelling unit contains the property for which such deduc-  
10 tion or credit has been allowed.

11       “(g) APPLICATION OF SECTION.—

12               “(1) 50 PERCENT HOMES.—In the case of any  
13 dwelling unit described in clause (ii) or (iv) of sub-  
14 section (c)(3)(C), subsection (a) shall apply to quali-  
15 fied new energy efficient homes acquired during the  
16 period beginning on the date of the enactment of  
17 this section, and ending on December 31, 2009.

18               “(2) 30 PERCENT HOMES.—In the case of any  
19 dwelling unit described in clause (i) or (iii) of sub-  
20 section (c)(3)(C), subsection (a) shall apply to quali-  
21 fied new energy efficient homes acquired during the  
22 period beginning on the date of the enactment of  
23 this section, and ending on December 31, 2007.”.

24       (b) CREDIT MADE PART OF GENERAL BUSINESS  
25 CREDIT.—Section 38(b) of the Internal Revenue Code of

1 1986 (relating to current year business credit) is amended  
2 by striking “plus” at the end of paragraph (18), by strik-  
3 ing the period at the end of paragraph (19) and inserting  
4 “, plus”, and by adding at the end the following new para-  
5 graph:

6           “(20) the new energy efficient home credit de-  
7           termined under section 45J(a).”.

8           (c) BASIS ADJUSTMENT.—Subsection (a) of section  
9 1016 of the Internal Revenue Code of 1986, as amended  
10 by section 101, is amended by striking “and” at the end  
11 of paragraph (31), by striking the period at the end of  
12 paragraph (32) and inserting “, and”, and by adding at  
13 the end the following new paragraph:

14           “(33) to the extent provided in section 45J(e),  
15           in the case of amounts with respect to which a credit  
16           has been allowed under section 45J.”.

17           (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
18 CREDITS.—Section 196(c) of the Internal Revenue Code  
19 of 1986 (defining qualified business credits) is amended  
20 by striking “and” at the end of paragraph (11), by strik-  
21 ing the period at the end of paragraph (12) and inserting  
22 “, and”, and by adding after paragraph (12) the following  
23 new paragraph:

24           “(13) the new energy efficient home credit de-  
25           termined under section 45J(a).”.

1 (e) CLERICAL AMENDMENT.—The table of sections  
 2 for subpart D of part IV of subchapter A of chapter 1  
 3 of the Internal Revenue Code of 1986 is amended by add-  
 4 ing at the end the following new item:

“Sec. 45J. New energy efficient home credit.”.

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

8 **SEC. 103. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**  
 9 **PROPERTY USED IN BUSINESS.**

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

13 **“SEC. 200. ENERGY PROPERTY DEDUCTION.**

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

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

20 “(2) the energy efficient residential rental  
 21 building property deduction determined under sub-  
 22 section (e).

23 “(b) AMOUNT FOR ENERGY PROPERTY.—

24 “(1) IN GENERAL.—The amount determined  
 25 under this subsection for the taxable year for each

1 item of energy property shall equal the amount spec-  
 2 ified 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.
Photovoltaic property .....	\$4.50 per peak watt.
Advanced main air circulating fan or a Tier 1 natural gas, propane, or oil water heater.	\$150.
Tier 2 energy-efficient building property .....	\$900.
Tier 1 energy-efficient building property (other than an advanced main air circulating fan or a natural gas, propane, or oil water heater).	\$450.

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

9           “(c) ENERGY PROPERTY DEFINED.—

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

12           “(A) which is—

13           “(i) solar energy property,

14           “(ii) Tier 2 energy-efficient building  
 15 property,

16           “(iii) Tier 1 energy-efficient building  
 17 property, or

18           “(iv) an advanced main air circulating  
 19 fan,

1           “(B)(i) the construction, reconstruction, or  
2 erection of which is completed by the taxpayer,  
3 or

4           “(ii) which is acquired by the taxpayer if  
5 the original use of such property commences  
6 with the taxpayer,

7           “(C) with respect to which depreciation (or  
8 amortization in lieu of depreciation) is allow-  
9 able, and

10          “(D) which meets the performance and  
11 quality standards, and the certification require-  
12 ments (if any), which—

13           “(i) have been prescribed by the Sec-  
14 retary by regulations (after consultation  
15 with the Secretary of Energy or the Ad-  
16 ministrator of the Environmental Protec-  
17 tion Agency, as appropriate),

18           “(ii) in the case of the energy effi-  
19 ciency ratio (EER) for central air condi-  
20 tioners and electric heat pumps—

21           “(I) require measurements to be  
22 based on published data which is test-  
23 ed by manufacturers at 95 degrees  
24 Fahrenheit, and

1                   “(II) may be based on the cer-  
 2                   tified data of the Air Conditioning  
 3                   and Refrigeration Institute that are  
 4                   prepared in partnership with the Con-  
 5                   sortium for Energy Efficiency,

6                   “(iii) in the case of geothermal heat  
 7                   pumps—

8                   “(I) shall be based on testing  
 9                   under the conditions of ARI/ISO  
 10                  Standard 13256–1 for Water Source  
 11                  Heat Pumps or ARI 870 for Direct  
 12                  Expansion GeoExchange Heat Pumps  
 13                  (DX), as appropriate, and

14                  “(II) shall include evidence that  
 15                  water heating services have been pro-  
 16                  vided through a desuperheater or inte-  
 17                  grated water heating system con-  
 18                  nected to the storage water heater  
 19                  tank, and

20                  “(iv) are in effect at the time of the  
 21                  acquisition of the property.

22                  “(2) SOLAR ENERGY PROPERTY.—In the case  
 23                  of—

24                  “(A) elected solar hot water property, the  
 25                  regulations under paragraph (1)(D) shall be

1 based on the OG–300 Standard for the Annual  
 2 Performance of OG–300 Certified Systems of  
 3 the Solar Rating and Certification Corporation,  
 4 and

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

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

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

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

20 “(1) SOLAR ENERGY PROPERTY.—

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

24 “(i) to generate electricity, or

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

3                   “(B) ELECTED SOLAR HOT WATER PROP-  
4                   PERTY.—

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

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

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

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

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

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

10           “(A) an electric heat pump water heater  
11 which yields an energy factor of at least 2.0 in  
12 the standard Department of Energy test proce-  
13 dure,

14           “(B) an electric heat pump which has a  
15 heating seasonal performance factor (HSPF) of  
16 at least 9, a seasonal energy efficiency ratio  
17 (SEER) of at least 15, and an energy efficiency  
18 ratio (EER) of at least 13,

19           “(C) a geothermal heat pump which—

20           “(i) in the case of a closed loop prod-  
21 uct, has an energy efficiency ratio (EER)  
22 of at least 14.1 and a heating coefficient of  
23 performance (COP) of at least 3.3,

24           “(ii) in the case of an open loop prod-  
25 uct, has an energy efficiency ratio (EER)

1 of at least 16.2 and a heating coefficient of  
2 performance (COP) of at least 3.6, and

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

8 “(D) a central air conditioner which has a  
9 seasonal energy efficiency ratio (SEER) of at  
10 least 15 and an energy efficiency ratio (EER)  
11 of at least 13, and

12 “(E) a natural gas, propane, or oil water  
13 heater which has an energy factor of at least  
14 0.80.

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

18 “(A) an electric heat pump which has a  
19 heating system performance factor (HSPF) of  
20 at least 8.5, a cooling seasonal energy efficiency  
21 ratio (SEER) of at least 14, and an energy effi-  
22 ciency ratio (EER) of at least 12,

23 “(B) a central air conditioner which has a  
24 cooling seasonal energy efficiency ratio (SEER)

1 of at least 14 and an energy efficiency ratio  
2 (EER) of at least 12,

3 “(C) a natural gas, propane, or oil water  
4 heater which has an energy factor of at least  
5 0.65, and

6 “(D) an oil, natural gas, or propane fur-  
7 nace or hot water boiler which achieves at least  
8 95 percent annual fuel utilization efficiency  
9 (AFUE).

10 “(4) ADVANCED MAIN AIR CIRCULATING FAN.—

11 The term ‘advanced main air circulating fan’ means  
12 a fan used in a natural gas, propane, or oil furnace  
13 originally placed in service by the taxpayer during  
14 the taxable year, including a fan which uses a  
15 brushless permanent magnet motor or another type  
16 of motor which achieves similar or higher efficiency  
17 at full and half speed, as determined by the Sec-  
18 retary.

19 “(e) ENERGY EFFICIENT RESIDENTIAL RENTAL  
20 BUILDING PROPERTY DEDUCTION.—

21 “(1) DEDUCTION ALLOWED.—For purposes of  
22 subsection (a)—

23 “(A) IN GENERAL.—The energy efficient  
24 residential rental building property deduction  
25 determined under this subsection is an amount

1 equal to energy efficient residential rental build-  
2 ing property expenditures made by a taxpayer  
3 for the taxable year.

4 “(B) MAXIMUM AMOUNT OF DEDUC-  
5 TION.—The amount of energy efficient residen-  
6 tial rental building property expenditures taken  
7 into account under subparagraph (A) with re-  
8 spect to each dwelling unit shall not exceed—

9 “(i) \$6,000 in the case of a percent-  
10 age reduction of 50 percent as determined  
11 under paragraph (2)(B), and

12 “(ii) \$12,000 times the percentage re-  
13 duction in the case of a percentage reduc-  
14 tion of less than 50 percent as determined  
15 under paragraph (2)(B).

16 “(C) YEAR DEDUCTION ALLOWED.—The  
17 deduction under subparagraph (A) shall be al-  
18 lowed in the taxable year in which the construc-  
19 tion, reconstruction, erection, or rehabilitation  
20 of the property is completed.

21 “(2) ENERGY EFFICIENT RESIDENTIAL RENTAL  
22 BUILDING PROPERTY EXPENDITURES.—For pur-  
23 poses of this subsection—

24 “(A) IN GENERAL.—The term ‘energy effi-  
25 cient residential rental building property ex-

1           penditures’ means an amount paid or incurred  
 2           in connection with construction, reconstruction,  
 3           erection, or rehabilitation of energy efficient  
 4           residential rental building property—

5                   “(i) for which depreciation is allow-  
 6                   able under section 167,

7                   “(ii) which is located in the United  
 8                   States, and

9                   “(iii) the construction, reconstruction,  
 10                  erection, or rehabilitation of which is com-  
 11                  pleted by the taxpayer.

12           Such term includes expenditures for labor costs  
 13           properly allocable to the onsite preparation, as-  
 14           sembly, or original installation of the property.

15           “(B) ENERGY EFFICIENT RESIDENTIAL  
 16           RENTAL BUILDING PROPERTY.—

17                   “(i) IN GENERAL.—The term ‘energy  
 18                   efficient residential rental building prop-  
 19                   erty’ means any property which reduces  
 20                   total annual energy and power costs with  
 21                   respect to heating and cooling of the build-  
 22                   ing by a percentage certified according to  
 23                   clause (ii).

24                   “(ii) PROCEDURES.—

1                   “(I) IN GENERAL.—For purposes  
2 of clause (i), energy usage and costs  
3 shall be demonstrated by perform-  
4 ance-based compliance.

5                   “(II) PERFORMANCE-BASED COM-  
6 PLIANCE.—Performance-based compli-  
7 ance shall be demonstrated by calcu-  
8 lating the percent energy cost savings  
9 for heating and cooling, as applicable,  
10 with respect to a dwelling unit when  
11 compared to the original condition of  
12 the dwelling unit.

13                   “(III) COMPUTER SOFTWARE.—  
14 Computer software shall be used in  
15 support of performance-based compli-  
16 ance under subclause (II) and such  
17 software shall meet all of the proce-  
18 dures and methods for calculating en-  
19 ergy savings reductions which are pro-  
20 mulgated by the Secretary of Energy.  
21 Such regulations on the specifications  
22 for software and verification protocols  
23 shall be based on the 2005 California  
24 Residential Alternative Calculation  
25 Method Approval Manual.

1                   “(IV) CALCULATION REQUIRE-  
2                   MENTS.—In calculating tradeoffs and  
3                   energy performance, the regulations  
4                   prescribed under this clause shall pre-  
5                   scribe for the taxable year the costs  
6                   per unit of energy and power, such as  
7                   kilowatt hour, kilowatt, gallon of fuel  
8                   oil, and cubic foot or Btu of natural  
9                   gas, which may be dependent on time  
10                  of usage. Where a State has developed  
11                  annual energy usage and cost calcula-  
12                  tion procedures based on time of  
13                  usage costs for use in the performance  
14                  standards of the State’s building en-  
15                  ergy code prior to the effective date of  
16                  this section, the State may use those  
17                  annual energy usage and cost calcula-  
18                  tion procedures in lieu of those adopt-  
19                  ed by the Secretary.

20                  “(V) APPROVAL OF SOFTWARE  
21                  SUBMISSIONS.—The Secretary shall  
22                  approve software submissions which  
23                  comply with the requirements of sub-  
24                  clause (III).

1                   “(VI) PROCEDURES FOR INSPEC-  
2                   TION AND TESTING OF HOMES.—The  
3                   Secretary shall ensure that procedures  
4                   for the inspection and testing for com-  
5                   pliance comply with the calculation re-  
6                   quirements under subclause (IV) of  
7                   this clause and clause (iv).

8                   “(iii) DETERMINATIONS OF COMPLI-  
9                   ANCE.—A determination of compliance  
10                  with respect to energy efficient residential  
11                  rental building property made for the pur-  
12                  poses of this subparagraph shall be filed  
13                  with the Secretary not later than 1 year  
14                  after the date of such determination and  
15                  shall include the TIN of the certifier, the  
16                  address of the building in compliance, and  
17                  the identity of the person for whom such  
18                  determination was performed. Determina-  
19                  tions of compliance filed with the Secretary  
20                  shall be available for inspection by the Sec-  
21                  retary of Energy.

22                  “(iv) COMPLIANCE.—

23                         “(I) IN GENERAL.—The Sec-  
24                         retary, after consultation with the  
25                         Secretary of Energy, shall establish

1 requirements for certification and  
2 compliance procedures after exam-  
3 ining the requirements for energy con-  
4 sultants and home energy ratings pro-  
5 viders specified by the Mortgage In-  
6 dustry National Home Energy Rating  
7 Standards.

8 “(II) INDIVIDUALS QUALIFIED  
9 TO DETERMINE COMPLIANCE.—The  
10 determination of compliance may be  
11 provided by a local building regulatory  
12 authority, a utility, a manufactured  
13 home production inspection primary  
14 inspection agency (IPIA), or an ac-  
15 credited home energy rating system  
16 provider. All providers shall be accred-  
17 ited, or otherwise authorized to use  
18 approved energy performance meas-  
19 urement methods, by the Residential  
20 Energy Services Network (RESNET).

21 “(C) ALLOCATION OF DEDUCTION FOR  
22 PUBLIC PROPERTY.—In the case of energy effi-  
23 cient residential rental building property which  
24 is public property, the Secretary shall promul-  
25 gate a regulation to allow the allocation of the

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

6           “(f) SPECIAL RULES.—For purposes of this sec-  
7   tion—

8           “(1) BASIS REDUCTION.—For purposes of this  
9           subtitle, if a deduction is allowed under this section  
10          with respect to any property, the basis of such prop-  
11          erty shall be reduced by the amount of the deduction  
12          so allowed.

13          “(2) DOUBLE BENEFIT.—Property which  
14          would, but for this paragraph, be eligible for a de-  
15          duction under more than one provision of this sec-  
16          tion shall be eligible only under one such provision,  
17          the provision specified by the taxpayer.

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

23          “(h) TERMINATION.—This section shall not apply  
24          with respect to—

1           “(1) any energy property placed in service after  
2           December 31, 2009 (December 31, 2005, in the case  
3           of Tier 1 energy-efficient building property (other  
4           than an oil, natural gas, or propane furnace or hot  
5           water boiler described in subsection (d)(3)(D))), and

6           “(2) any energy efficient residential rental  
7           building property expenditures in connection with  
8           property—

9                   “(A) placed in service after December 31,  
10                   2009, or

11                   “(B) the construction, reconstruction, erec-  
12                   tion, or rehabilitation of which is not completed  
13                   on or before December 31, 2009.”.

14           (b) CONFORMING AMENDMENTS.—

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

17                           “(A) which is equipment used to produce,  
18                           distribute, or use energy derived from a geo-  
19                           thermal deposit (within the meaning of section  
20                           613(e)(2)), but only, in the case of electricity  
21                           generated by geothermal power, up to (but not  
22                           including) the electrical transmission stage,”.

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

25                           (A) in clause (vi)(I)—

1 (i) by striking “section 48(a)(3)” and  
2 inserting “section 200(d)(1)”, and

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

5 (B) in the last sentence, by striking “sec-  
6 tion 48(a)(3)” and inserting “section  
7 200(c)(3)”.

8 (3) Section 1016(a) of such Code, as amended  
9 by section 102, is amended by striking “and” at the  
10 end of paragraph (32), by striking the period at the  
11 end of paragraph (33) and inserting “, and”, and by  
12 inserting the following new paragraph:

13 “(34) for amounts allowed as a deduction under  
14 section 200(a).”.

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

“Sec. 200. Energy property deduction.”.

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

23 (e) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2004.

1 **SEC. 104. CREDIT FOR CERTAIN NONBUSINESS ENERGY**  
2 **PROPERTY.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-  
4 chapter A of chapter 1 of the Internal Revenue Code of  
5 1986 (relating to nonrefundable personal credits) is  
6 amended by inserting after section 25B the following new  
7 section:

8 **“SEC. 25C. NONBUSINESS ENERGY PROPERTY.**

9 “(a) ALLOWANCE OF CREDIT.—

10 “(1) IN GENERAL.—In the case of an indi-  
11 vidual, there shall be allowed as a credit against the  
12 tax imposed by this chapter for the taxable year an  
13 amount equal to the sum of—

14 “(A) the amount determined under sub-  
15 section (b) for each qualified energy property of  
16 the taxpayer placed in service during such tax-  
17 able year, and

18 “(B) so much of the credit amount speci-  
19 fied in paragraph (2) which does not exceed the  
20 expenditures made by the taxpayer in connec-  
21 tion with the construction, reconstruction, erec-  
22 tion, or rehabilitation of a dwelling unit of the  
23 taxpayer which results in the unit being a high-  
24 ly energy-efficient principal residence.

25 For purposes of subparagraph (B), the expenditures  
26 may include labor costs properly allocable to the on-

1 site preparation, assembly, or original installation of  
2 such property.

3 “(2) CREDIT AMOUNT.—The credit amount  
4 with respect to a highly energy-efficient principal  
5 residence is—

6 “(A) \$2,000 in the case of a percentage re-  
7 duction of 50 percent as determined under sub-  
8 section (c)(6)(A)(iii), and

9 “(B) \$4,000 times the percentage reduc-  
10 tion in the case of a percentage reduction of  
11 less than 50 percent as determined under sub-  
12 section (c)(6)(A)(iii).

13 “(b) AMOUNT FOR QUALIFIED ENERGY PROP-  
14 erty.—

15 “(1) RESIDENTIAL ENERGY PROPERTY EX-  
16 PENDITURES.—Except as provided in paragraph (2),  
17 the amount determined under this subsection for the  
18 taxable year for each item of qualified energy prop-  
19 erty shall equal the amount of residential energy  
20 property expenditures made by the taxpayer with re-  
21 spect to such property during such taxable year.

22 “(2) SOLAR HOT WATER PROPERTY; PHOTO-  
23 VOLTAIC PROPERTY.—

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

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

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

5 “(B) ELECTED SOLAR HOT WATER PROP-  
 6 ERTY.—In the case of elected solar hot water  
 7 property (as defined in section 200(d)(1)(B)),  
 8 the taxpayer may elect to substitute ‘\$7 per an-  
 9 nual Therm of natural gas savings’ for ‘35¢ per  
 10 each kwh/year of savings’ in the table contained  
 11 in subparagraph (A).

12 “(3) MAXIMUM AMOUNT.—In the case of prop-  
 13 erty described in the following table, the amount of  
 14 expenditures taken into account under paragraph  
 15 (1) and the amount determined under paragraph (2)  
 16 for the taxable year for each item of qualified energy  
 17 property with respect to a dwelling unit shall not ex-  
 18 ceed the amount specified for such property in such  
 19 table:

“Description of property item:	Maximum allowable credit amount is:
Tier 2 energy-efficient building property .....	\$300.

“Description of property item:	Maximum allowable credit amount is:
Advanced main air circulating fan or a Tier 1 natural gas, propane, or oil water heater.	\$50.
Tier 1 energy-efficient building property (other than an advanced main air circulating fan or a natural gas, propane, or oil water heater).	\$150.
Solar hot water property .....	\$1,000.
Photovoltaic property .....	\$6,000.

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

3                   “(1) RESIDENTIAL ENERGY PROPERTY EX-  
4 PENDITURES.—The term ‘residential energy prop-  
5 erty expenditures’ means expenditures made by the  
6 taxpayer for qualified energy property installed on or  
7 in connection with a dwelling unit which—

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

9                           “(B) is used as a principal residence.

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

13                   “(2) QUALIFIED ENERGY PROPERTY.—

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

16                                   “(i) energy-efficient building property,

17                                   “(ii) solar hot water property,

18                                   “(iii) photovoltaic property, and

19                                   “(iv) an advanced main air circulating  
20 fan.

1           “(B) SWIMMING POOL, ETC., USED AS  
2           STORAGE MEDIUM; SOLAR PANELS.—For pur-  
3           poses of this paragraph, the provisions of sub-  
4           paragraphs (D) and (E) section 200(d)(1) shall  
5           apply.

6           “(C) REQUIRED STANDARDS.—Property  
7           described under subparagraph (A) shall meet  
8           the performance and quality standards and cer-  
9           tification standards of paragraphs (1)(D) and  
10          (2) of section 200(c).

11          “(3) ENERGY-EFFICIENT BUILDING PROP-  
12          PERTY.—The term ‘energy-efficient building property’  
13          has the same meaning given the terms ‘Tier 2 en-  
14          ergy-efficient property’, ‘Tier 1 energy-efficient  
15          property’, and ‘advanced main air circulating fan’ in  
16          paragraphs (2), (3), and (4) of section 200(d), re-  
17          spectively.

18          “(4) SOLAR HOT WATER PROPERTY.—The term  
19          ‘solar hot water property’ means property which,  
20          when installed in connection with a structure, uses  
21          solar energy for the purpose of providing hot water  
22          for use within such structure and the performance  
23          of which is determined in accordance with section  
24          200(c)(2)(A).

1           “(5) PHOTOVOLTAIC PROPERTY.—The term  
2           ‘photovoltaic property’ has the same meaning given  
3           such term in section 200(d)(1)(C).

4           “(6) HIGHLY ENERGY-EFFICIENT PRINCIPAL  
5           RESIDENCE.—

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

8           “(i) such property is located in the  
9           United States,

10           “(ii) the property is used as a prin-  
11           cipal residence, and

12           “(iii) the projected heating and cool-  
13           ing energy usage of such property, meas-  
14           ured in terms of average annual energy  
15           cost to taxpayer, is reduced by a percent-  
16           age certified according to subparagraph  
17           (C) in comparison to the energy cost of  
18           such property if expenditures made by the  
19           taxpayer with respect to energy efficient  
20           improvements to such property were not  
21           made.

22           “(B) PRINCIPAL RESIDENCE.—

23           “(i) IN GENERAL.—The term ‘prin-  
24           cipal residence’ has the same meaning as  
25           when used in section 121, except that—

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

3                   “(II) the period for which a  
4 building is treated as used as a prin-  
5 cipal residence shall also include the  
6 60-day period ending on the 1st day  
7 on which it would (but for this sub-  
8 paragraph) first be treated as used as  
9 a principal residence.

10                   “(ii) MANUFACTURED HOUSING.—The  
11 term ‘residence’ shall include a dwelling  
12 unit which is a manufactured home con-  
13 forming to Federal Manufactured Home  
14 Construction and Safety Standards (24  
15 C.F.R. 3280).

16                   “(C) CERTIFICATION PROCEDURES.—

17                   “(i) IN GENERAL.—For purposes of  
18 subparagraph (A)(iii), energy usage shall  
19 be demonstrated by performance-based  
20 compliance.

21                   “(ii) PERFORMANCE-BASED COMPLI-  
22 ANCE.—Performance-based compliance  
23 shall be demonstrated if the percent energy  
24 cost savings for heating and cooling is met  
25 with respect to a dwelling unit when com-

1           pared to the original condition of the dwell-  
2           ing unit.

3           “(iii) COMPUTER SOFTWARE.—Com-  
4           puter software shall be used in support of  
5           performance-based compliance under  
6           clause (ii) and such software shall meet all  
7           of the procedures and methods for calcu-  
8           lating energy savings reductions which are  
9           promulgated by the Secretary of Energy.  
10          Such regulations on the specifications for  
11          software and verification protocols shall be  
12          based on the 2005 California Residential  
13          Alternative Calculation Method Approval  
14          Manual.

15          “(iv) CALCULATION REQUIRE-  
16          MENTS.—In calculating tradeoffs and en-  
17          ergy performance, the regulations shall  
18          prescribe the costs per unit of energy and  
19          power, such as kilowatt hour, kilowatt, gal-  
20          lon of fuel oil, and cubic foot or Btu of  
21          natural gas, which may be dependent on  
22          time of usage. If a State has developed an-  
23          nual energy usage and cost calculation pro-  
24          cedures based on time of usage costs for  
25          use in the performance standards of the

1 State's building energy code before the ef-  
2 fective date of this section, the State may  
3 use those annual energy usage and cost  
4 calculation procedures in lieu of those  
5 adopted by the Secretary.

6 “(v) APPROVAL OF SOFTWARE SUB-  
7 MISSIONS.—The Secretary shall approve  
8 software submissions which comply with  
9 the calculation requirements of clause (iii).

10 “(vi) PROCEDURES FOR INSPECTION  
11 AND TESTING OF DWELLING UNITS.—The  
12 Secretary shall ensure that procedures for  
13 the inspection and testing for compliance  
14 comply with the calculation requirements  
15 under clause (iii) and subsection (d)(2).

16 “(d) SPECIAL RULES.—For purposes of this sec-  
17 tion—

18 “(1) DETERMINATIONS OF COMPLIANCE.—A  
19 determination of compliance made for the purposes  
20 of this section shall be filed with the Secretary with-  
21 in 1 year of the date of such determination and shall  
22 include the TIN of the certifier, the address of the  
23 building in compliance, and the identity of the per-  
24 son for whom such determination was performed.  
25 Determinations of compliance filed with the Sec-

1       retary shall be available for inspection by the Sec-  
2       retary of Energy.

3               “(2) COMPLIANCE.—

4                       “(A) IN GENERAL.—The Secretary, after  
5       consultation with the Secretary of Energy shall  
6       establish requirements for certification and  
7       compliance procedures after examining the re-  
8       quirements for energy consultants and home en-  
9       ergy ratings providers specified by the Mort-  
10      gage Industry National Home Energy Rating  
11      Standards.

12                      “(B) INDIVIDUALS QUALIFIED TO DETER-  
13      MINE COMPLIANCE.—The determination of  
14      compliance may be provided by a local building  
15      regulatory authority, a utility, a manufactured  
16      home production inspection primary inspection  
17      agency (IPIA), or an accredited home energy  
18      rating system provider. All providers shall be  
19      accredited, or otherwise authorized to use ap-  
20      proved energy performance measurement meth-  
21      ods, by the Residential Energy Services Net-  
22      work (RESNET).

23               “(3) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
24      CUPANCY.—In the case of any dwelling unit which if  
25      jointly occupied and used during any calendar year

1 as a principal residence by 2 or more individuals the  
2 following rules shall apply:

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

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

20 “(4) TENANT-STOCKHOLDER IN COOPERATIVE  
21 HOUSING CORPORATION.—In the case of an indi-  
22 vidual who is a tenant-stockholder (as defined in sec-  
23 tion 216) in a cooperative housing corporation (as  
24 defined in such section), such individual shall be  
25 treated as having made his tenant-stockholder’s pro-

1       portionate share (as defined in section 216(b)(3)) of  
2       any expenditures of such corporation and such credit  
3       shall be allocated pro rata to such individual.

4           “(5) CONDOMINIUMS.—

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

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

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

21               “(A) IN GENERAL.—Any expenditure oth-  
22      erwise qualifying as an expenditure under this  
23      section shall not be treated as failing to so  
24      qualify merely because such expenditure was  
25      made with respect to 2 or more dwelling units.

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

8           “(7) ALLOCATION IN CERTAIN CASES.—If less  
9           than 80 percent of the use of an item is for nonbusi-  
10          ness purposes, only that portion of the expenditures  
11          for such item which is properly allocable to use for  
12          nonbusiness purposes shall be taken into account.

13          “(8) COORDINATION WITH OTHER CREDITS.—  
14          Property which would, but for this paragraph, be eli-  
15          gible for credit under more than one provision of  
16          this section shall be eligible only under one such pro-  
17          vision, the provision specified by the taxpayer.

18          “(9) YEAR CREDIT ALLOWED.—The credit  
19          under subsection (a)(2) shall be allowed in the tax-  
20          able year in which the percentage reduction with re-  
21          spect to the principal residence is certified.

22          “(10) WHEN EXPENDITURE MADE; AMOUNT OF  
23          EXPENDITURE.—

24                 “(A) IN GENERAL.—Except as provided in  
25                 subparagraph (B), an expenditure with respect

1 to an item shall be treated as made when the  
2 original installation of the item is completed.

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

9 “(11) PROPERTY FINANCED BY SUBSIDIZED  
10 ENERGY FINANCING.—

11 “(A) REDUCTION OF EXPENDITURES.—

12 “(i) IN GENERAL.—Except as pro-  
13 vided in subparagraph (C), for purposes of  
14 determining the amount of expenditures  
15 made by any individual with respect to any  
16 dwelling unit, there shall not be taken into  
17 account expenditures which are made from  
18 subsidized energy financing.

19 “(ii) SUBSIDIZED ENERGY FINANC-  
20 ING.—For purposes of clause (i), the term  
21 ‘subsidized energy financing’ has the same  
22 meaning given such term in section  
23 48(a)(4)(C).

24 “(B) DOLLAR LIMITS REDUCED.—The dol-  
25 lar amounts in the table contained in subsection

1 (b)(3) with respect to each property purchased  
2 for such dwelling unit for any taxable year of  
3 such taxpayer shall be reduced proportionately  
4 by an amount equal to the sum of—

5 “(i) the amount of the expenditures  
6 made by the taxpayer during such taxable  
7 year with respect to such dwelling unit and  
8 not taken into account by reason of sub-  
9 paragraph (A), and

10 “(ii) the amount of any Federal,  
11 State, or local grant received by the tax-  
12 payer during such taxable year which is  
13 used to make residential energy property  
14 expenditures with respect to the dwelling  
15 unit and is not included in the gross in-  
16 come of such taxpayer.

17 “(C) EXCEPTION FOR STATE PROGRAMS.—

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

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

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

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

9 “(g) TERMINATION.—This section shall not apply  
10 with respect to any energy property placed in service after  
11 December 31, 2009 (December 31, 2005, in the case of  
12 Tier 1 energy-efficient building property (other than an  
13 oil, natural gas, or propane furnace or hot water boiler  
14 described in section 200(d)(3)(D))).”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Subsection (a) of section 1016 of the Inter-  
17 nal Revenue Code of 1986, as amended by section  
18 103, is amended by striking “and” at the end of  
19 paragraph (33), by striking the period at the end of  
20 paragraph (34) and inserting “, and”, and by add-  
21 ing at the end the following new paragraph:

22 “(35) to the extent provided in section 25C(e),  
23 in the case of amounts with respect to which a credit  
24 has been allowed under section 25C.”.

1           (2) The table of sections for subpart A 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 25B the following new item:

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

5           (c) EFFECTIVE DATES.—The amendments made by  
 6           this section shall apply to expenditures made after Decem-  
 7           ber 31, 2004.

8           **SEC. 105. ENERGY CREDIT FOR COMBINED HEAT AND**  
 9                                   **POWER SYSTEM PROPERTY.**

10          (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-  
 11          nal Revenue Code of 1986 (defining energy property), as  
 12          amended by section 103, is amended to read as follows:

13                           “(A) which is—

14                                   “(i) equipment used to produce, dis-  
 15                                   tribute, or use energy derived from a geo-  
 16                                   thermal deposit (within the meaning of  
 17                                   section 613(e)(2)), but only, in the case of  
 18                                   electricity generated by geothermal power,  
 19                                   up to (but not including) the electrical  
 20                                   transmission stage, or

21                                   “(ii) combined heat and power system  
 22                                   property,”.

23          (b) COMBINED HEAT AND POWER SYSTEM PROP-  
 24          PERTY.—Section 48 of the Internal Revenue Code of 1986

1 (relating to energy credit; reforestation credit) is amended  
2 by adding at the end the following new subsection:

3 “(c) COMBINED HEAT AND POWER SYSTEM PROP-  
4 erty.—For purposes of subsection (a)(3)(A)(ii)—

5 “(1) COMBINED HEAT AND POWER SYSTEM  
6 PROPERTY.—The term ‘combined heat and power  
7 system property’ means property comprising a sys-  
8 tem—

9 “(A) which uses the same energy source  
10 for the simultaneous or sequential generation of  
11 electrical power, mechanical shaft power, or  
12 both, in combination with the generation of  
13 steam or other forms of useful thermal energy  
14 (including heating and cooling applications),

15 “(B) which has an electrical capacity of  
16 not more than 15 megawatts or a mechanical  
17 energy capacity of not more than 2,000 horse-  
18 power or an equivalent combination of electrical  
19 and mechanical energy capacities,

20 “(C) which produces—

21 “(i) at least 20 percent of its total  
22 useful energy in the form of thermal en-  
23 ergy which is not used to produce electrical  
24 or mechanical power (or combination  
25 thereof), and

1                   “(ii) at least 20 percent of its total  
2                   useful energy in the form of electrical or  
3                   mechanical power (or combination thereof),

4                   “(D) the energy efficiency percentage of  
5                   which exceeds 60 percent, and

6                   “(E) which is placed in service before Jan-  
7                   uary 1, 2008.

8                   “(2) SPECIAL RULES.—

9                   “(A) ENERGY EFFICIENCY PERCENT-  
10                  AGE.—For purposes of this subsection, the en-  
11                  ergy efficiency percentage of a system is the  
12                  fraction—

13                   “(i) the numerator of which is the  
14                   total useful electrical, thermal, and me-  
15                   chanical power produced by the system at  
16                   normal operating rates, and expected to be  
17                   consumed in its normal application, and

18                   “(ii) the denominator of which is the  
19                   lower heating value of the fuel sources for  
20                   the system.

21                   “(B) DETERMINATIONS MADE ON BTU  
22                  BASIS.—The energy efficiency percentage and  
23                  the percentages under paragraph (1)(C) shall  
24                  be determined on a Btu basis.

1           “(C) INPUT AND OUTPUT PROPERTY NOT  
2 INCLUDED.—The term ‘combined heat and  
3 power system property’ does not include prop-  
4 erty used to transport the energy source to the  
5 facility or to distribute energy produced by the  
6 facility.

7           “(D) PUBLIC UTILITY PROPERTY.—

8           “(i) ACCOUNTING RULE FOR PUBLIC  
9 UTILITY PROPERTY.—If the combined heat  
10 and power system property is public utility  
11 property (as defined in section 168(i)(10)),  
12 the taxpayer may only claim the credit  
13 under subsection (a) if, with respect to  
14 such property, the taxpayer uses a normal-  
15 ization method of accounting.

16           “(ii) CERTAIN EXCEPTION NOT TO  
17 APPLY.—The matter in subsection (a)(3)  
18 which follows subparagraph (D) thereof  
19 shall not apply to combined heat and  
20 power system property.

21           “(3) SYSTEMS USING BAGASSE.—If a system is  
22 designed to use bagasse for at least 90 percent of  
23 the energy source—

24           “(A) paragraph (1)(D) shall not apply, but



1           “(ii) The term ‘medium base compact fluo-  
2           rescent lamp’ does not include—

3                   “(I) any lamp that is—

4                           “(aa) specifically designed to be  
5                           used for special purpose applications;  
6                           and

7                           “(bb) unlikely to be used in gen-  
8                           eral purpose applications, such as the  
9                           applications described in subpara-  
10                          graph (D); or

11                          “(II) any lamp not described in sub-  
12                          paragraph (D) that is excluded by the Sec-  
13                          retary, by rule, because the lamp is—

14                                  “(aa) designed for special appli-  
15                                  cations; and

16                                  “(bb) unlikely to be used in gen-  
17                                  eral purpose applications.”; and

18                          (2) by adding at the end the following:

19                          “(32) The term ‘battery charger’ means a de-  
20                          vice that charges batteries for consumer products,  
21                          including battery chargers embedded in other con-  
22                          sumer products.

23                          “(33) The term ‘ceiling fan’ means a nonport-  
24                          able device that is suspended from a ceiling for cir-  
25                          culating air via the rotation of fan blades.

1           “(34) The term ‘ceiling fan light kit’ means  
2 equipment designed to provide light from a ceiling  
3 fan that can be—

4           “(A) integral, such that the equipment is  
5 attached to the ceiling fan prior to the time of  
6 retail sale; or

7           “(B) attachable, such that at the time of  
8 retail sale the equipment is not physically at-  
9 tached to the ceiling fan, but may be included  
10 inside the ceiling fan package at the time of  
11 sale or sold separately for subsequent attach-  
12 ment to the fan.

13           “(35) The term ‘commercial refrigerators,  
14 freezers, and refrigerator-freezers’ means refrig-  
15 erators, freezers, or refrigerator-freezers that—

16           “(A) are not consumer products regulated  
17 under this Act; and

18           “(B) incorporate most components involved  
19 in the vapor-compression cycle and the refrig-  
20 erated compartment in a single package.

21           “(36) The term ‘dehumidifier’ means a self-con-  
22 tained, electrically operated, and mechanically en-  
23 cased assembly consisting of—

24           “(A) a refrigerated surface (evaporator)  
25 that condenses moisture from the atmosphere;

1           “(B) a refrigerating system, including an  
2 electric motor;

3           “(C) an air-circulating fan; and

4           “(D) means for collecting or disposing of  
5 the condensate.

6           “(37)(A) The term ‘distribution transformer’  
7 means a transformer that—

8           “(i) has an input voltage of 34.5 kilovolts  
9 or less;

10           “(ii) has an output voltage of 600 volts or  
11 less; and

12           “(iii) is rated for operation at a frequency  
13 of 60 hertz.

14           “(B) The term ‘distribution transformer’ does  
15 not include—

16           “(i) a transformer with multiple voltage  
17 taps, with the highest voltage tap equaling at  
18 least 20 percent more than the lowest voltage  
19 tap;

20           “(ii) a transformer that is designed to be  
21 used in a special purpose application and is un-  
22 likely to be used in general purpose applica-  
23 tions, such as a drive transformer, rectifier  
24 transformer, auto-transformer, Uninterruptible  
25 Power System transformer, impedance trans-

1 former, harmonic transformer, regulating trans-  
2 former, sealed and nonventilating transformer,  
3 machine tool transformer, welding transformer,  
4 grounding transformer, or testing transformer;  
5 or

6 “(iii) any transformer not listed in clause  
7 (ii) that is excluded by the Secretary by rule be-  
8 cause—

9 “(I) the transformer is designed for a  
10 special application;

11 “(II) the transformer is unlikely to be  
12 used in general purpose applications; and

13 “(III) the application of standards to  
14 the transformer would not result in signifi-  
15 cant energy savings.

16 “(38) The term ‘external power supply’ means  
17 an external power supply circuit that is used to con-  
18 vert household electric current into DC current or  
19 lower-voltage AC current to operate a consumer  
20 product.

21 “(39) The term ‘illuminated exit sign’ means a  
22 sign that—

23 “(A) is designed to be permanently fixed in  
24 place to identify an exit; and

1           “(B) consists of an electrically powered in-  
2           tegral light source that—

3                   “(i) illuminates the legend ‘EXIT’  
4                   and any directional indicators; and

5                   “(ii) provides contrast between the  
6                   legend, any directional indicators, and the  
7                   background.

8           “(40) The term ‘low-voltage dry-type distribu-  
9           tion transformer’ means a distribution transformer  
10           that—

11                   “(A) has an input voltage of 600 volts or  
12                   less;

13                   “(B) is air-cooled; and

14                   “(C) does not use oil as a coolant.

15           “(41) The term ‘standby mode’ means the low-  
16           est power consumption mode, as established on an  
17           individual product basis by the Secretary, that—

18                   “(A) cannot be switched off or influenced  
19                   by the user; and

20                   “(B) may persist for an indefinite time  
21                   when an appliance is—

22                           “(i) connected to the main electricity  
23                           supply; and

24                           “(ii) used in accordance with the in-  
25                           structions of the manufacturer.

1           “(42) The term ‘torchiere’ means a portable  
2 electric lamp with a reflector bowl that directs light  
3 upward to give indirect illumination.

4           “(43) The term ‘traffic signal module’ means a  
5 standard 8-inch (200mm) or 12-inch (300mm) traf-  
6 fic signal indication that—

7                   “(A) consists of a light source, a lens, and  
8 all other parts necessary for operation; and

9                   “(B) communicates movement messages to  
10 drivers through red, amber, and green colors.

11           “(44) The term ‘transformer’ means a device  
12 consisting of 2 or more coils of insulated wire that  
13 transfers alternating current by electromagnetic in-  
14 duction from 1 coil to another to change the original  
15 voltage or current value.

16           “(45)(A) The term ‘unit heater’ means a self-  
17 contained fan-type heater designed to be installed  
18 within the heated space.

19                   “(B) The term ‘unit heater’ does not include a  
20 warm air furnace.

21           “(46)(A) The term ‘commercial prerinse spray  
22 valve’ means a handheld device designed and mar-  
23 keted for use with commercial dishwashing and ware  
24 washing equipment that sprays water on dishes, flat-

1 ware, and other food service items for the purpose  
2 of removing food residue before cleaning the items.

3 “(B) The Secretary may modify the definition  
4 of ‘commercial prerinse spray valve’ by rule—

5 “(i) to include products—

6 “(I) that are extensively used in con-  
7 junction with commercial dishwashing and  
8 ware washing equipment;

9 “(II) the application of standards to  
10 which would result in significant energy  
11 savings; and

12 “(III) the application of standards to  
13 which would meet the criteria specified in  
14 subsection (o)(4); and

15 “(ii) to exclude products—

16 “(I) that are used for special food  
17 service applications;

18 “(II) that are unlikely to be widely  
19 used in conjunction with commercial dish-  
20 washing and ware washing equipment; and

21 “(III) the application of standards to  
22 which would not result in significant en-  
23 ergy savings.”.

1 (b) TEST PROCEDURES.—Section 323 of the Energy  
2 Policy and Conservation Act (42 U.S.C. 6293) is amend-  
3 ed—

4 (1) in subsection (b), by adding at the end the  
5 following:

6 “(9) Test procedures for illuminated exit signs shall  
7 be based on the test method used under version 2.0 of  
8 the Energy Star program of the Environmental Protection  
9 Agency for illuminated exit signs.

10 “(10)(A) Test procedures for distribution trans-  
11 formers and low-voltage dry-type distribution trans-  
12 formers shall be based on the ‘Standard Test Method for  
13 Measuring the Energy Consumption of Distribution  
14 Transformers’ prescribed by the National Electrical Man-  
15 ufacturers Association (NEMA TP 2–1998).

16 “(B) The Secretary may review and revise the test  
17 procedures established under subparagraph (A).

18 “(C) For purposes of section 346(a), the test proce-  
19 dures established under subparagraph (A) shall be consid-  
20 ered to be the testing requirements prescribed by the Sec-  
21 retary under section 346(a)(1) for distribution trans-  
22 formers for which the Secretary makes a determination  
23 that energy conservation standards would—

24 (i) be technologically feasible and economically  
25 justified; and

1           “(ii) result in significant energy savings.

2           “(11) Test procedures for traffic signal modules shall  
3 be based on the test method used under the Energy Star  
4 program of the Environmental Protection Agency for traf-  
5 fic signal modules, as in effect on the date of enactment  
6 of this paragraph.

7           “(12)(A) Test procedures for medium-base compact  
8 fluorescent lamps shall be based on the test methods for  
9 compact fluorescent lamps used under the August 9, 2001,  
10 version of the Energy Star program of the Environmental  
11 Protection Agency and the Department of Energy.

12          “(B) Except as provided in subparagraph (C), me-  
13 dium-base compact fluorescent lamps shall meet all test  
14 requirements for regulated parameters of section 325(bb).

15          “(C) Notwithstanding subparagraph (B), if manufac-  
16 turers document engineering predictions and analysis that  
17 support expected attainment of lumen maintenance at 40  
18 percent rated life and lamp life time, medium-base com-  
19 pact fluorescent lamps may be marketed before completion  
20 of lamp life and lumen maintenance at 40 percent of rated  
21 life testing.

22          “(13) Air movement test procedures for ceiling fans  
23 shall be based on the test procedure contained in the En-  
24 ergy Star Program Requirements for Residential Ceiling  
25 Fans, version 2.0, developed by the Environmental Protec-

1 tion Agency, unless, pursuant to this section, the Sec-  
2 retary promulgates an alternative test procedure.

3 “(14) Test procedures for dehumidifiers shall be  
4 based on the test criteria used under the Energy Star Pro-  
5 gram Requirements for Dehumidifiers developed by the  
6 Environmental Protection Agency, as in effect on the date  
7 of enactment of this paragraph unless revised by the Sec-  
8 retary pursuant to this section.

9 “(15) The test procedure for measuring flow rate for  
10 commercial prerinse spray valves shall be based on Amer-  
11 ican Society for Testing and Materials Standard F2324,  
12 entitled ‘Standard Test Method for Prerinse Spray  
13 Valves.’ ”; and

14 (2) by adding at the end the following:

15 “(f) ADDITIONAL CONSUMER AND COMMERCIAL  
16 PRODUCTS.—(1) Not later than 2 years after the date of  
17 enactment of this subsection, the Secretary shall prescribe  
18 testing requirements for—

19 “(A) refrigerated bottled or canned beverage  
20 vending machines; and

21 “(B) commercial refrigerators, freezers, and re-  
22 frigerator-freezers.

23 “(2) To the maximum extent practicable, the testing  
24 requirements prescribed under paragraph (1) shall be  
25 based on existing test procedures used in industry.”.

1 (c) NEW STANDARDS.—Section 325 of the Energy  
2 Policy and Conservation Act (42 U.S.C. 6295) is amended  
3 by adding at the end the following:

4 “(u) BATTERY CHARGER AND EXTERNAL POWER  
5 SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not  
6 later than 18 months after the date of enactment of this  
7 subsection, the Secretary shall, after providing notice and  
8 an opportunity for comment, prescribe, by rule, definitions  
9 and test procedures for the power use of battery chargers  
10 and external power supplies.

11 “(B) In establishing the test procedures under sub-  
12 paragraph (A), the Secretary shall—

13 “(i) consider existing definitions and test proce-  
14 dures used for measuring energy consumption in  
15 standby mode and other modes; and

16 “(ii) assess the current and projected future  
17 market for battery chargers and external power sup-  
18 plies.

19 “(C) The assessment under subparagraph (B)(ii)  
20 shall include—

21 “(i) estimates of the significance of potential  
22 energy savings from technical improvements to bat-  
23 tery chargers and external power supplies; and

24 “(ii) suggested product classes for standards.

1       “(D) Not later than 18 months after the date of en-  
2 actment of this subsection, the Secretary shall hold a  
3 scoping workshop to discuss and receive comments on  
4 plans for developing energy conservation standards for en-  
5 ergy use for battery chargers and external power supplies.

6       “(E)(i) Not later than 3 years after the date of enact-  
7 ment of this subsection, the Secretary shall issue a final  
8 rule that determines whether energy conservation stand-  
9 ards shall be issued for battery chargers and external  
10 power supplies or classes of battery chargers and external  
11 power supplies.

12       “(ii) For each product class, any standards issued  
13 under clause (i) shall be set at the lowest level of energy  
14 use that—

15               “(I) meets the criteria and procedures of sub-  
16 sections (o), (p), (q), (r), (s), and (t); and

17               “(II) would result in significant overall annual  
18 energy savings, considering standby mode and other  
19 operating modes.

20       “(2) In determining under section 323 whether test  
21 procedures and energy conservation standards under this  
22 section should be revised with respect to covered products  
23 that are major sources of standby mode energy consump-  
24 tion, the Secretary shall consider whether to incorporate  
25 standby mode into the test procedures and energy con-

1 servation standards, taking into account standby mode  
2 power consumption compared to overall product energy  
3 consumption.

4 “(3) The Secretary shall not propose a standard  
5 under this section unless the Secretary has issued applica-  
6 ble test procedures for each product under section 323.

7 “(4) Any standard issued under this subsection shall  
8 be applicable to products manufactured or imported begin-  
9 ning on the date that is 3 years after the date of issuance.

10 “(5) The Secretary and the Administrator shall col-  
11 laborate and develop programs (including Energy Star  
12 Programs and other voluntary industry agreements or  
13 codes of conduct) that are designed to reduce standby  
14 mode energy use.

15 “(v) VENDING MACHINES AND COMMERCIAL RE-  
16 FRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZ-  
17 ERS.—(1) Not later than 3 years after the date on which  
18 testing requirements are prescribed by the Secretary  
19 under section 323(f), the Secretary shall prescribe, by  
20 rule, energy conservation standards for—

21 “(A) refrigerated bottled or canned beverage  
22 vending machines; and

23 “(B) commercial refrigerators, freezers, and re-  
24 frigerator-freezers.

1       “(2) In establishing standards under this subsection,  
2 the Secretary shall use the criteria and procedures pre-  
3 scribed under subsections (o) and (p).

4       “(3) Any standard prescribed under this subsection  
5 shall apply to products manufactured 3 years after the  
6 date of publication of a final rule establishing the stand-  
7 ard.

8       “(w) ILLUMINATED EXIT SIGNS.—An illuminated  
9 exit sign manufactured on or after January 1, 2006, shall  
10 meet the version 2.0 Energy Star Program performance  
11 requirements for illuminated exit signs prescribed by the  
12 Environmental Protection Agency.

13       “(x) TORCHIERES.—A torchiere manufactured on or  
14 after January 1, 2006—

15               “(1) shall consume not more than 190 watts of  
16 power; and

17               “(2) shall not be capable of operating with  
18 lamps that total more than 190 watts.

19       “(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION  
20 TRANSFORMERS.—The efficiency of a low voltage dry-type  
21 distribution transformer manufactured on or after Janu-  
22 ary 1, 2006, shall be the Class I Efficiency Levels for dis-  
23 tribution transformers specified in table 4–2 of the ‘Guide  
24 for Determining Energy Efficiency for Distribution Trans-

1 formers' published by the National Electrical Manufactur-  
2 ers Association (NEMA TP-1-2002).

3       “(z) TRAFFIC SIGNAL MODULES.—A traffic signal  
4 module manufactured on or after January 1, 2007,  
5 shall—

6               “(1) meet the performance requirements used  
7 under the Energy Star program of the Environ-  
8 mental Protection Agency for traffic signals, as in  
9 effect on the date of enactment of this subsection;  
10 and

11               “(2) be installed with compatible, electrically  
12 connected signal control interface devices and con-  
13 flict monitoring systems.

14       “(aa) UNIT HEATERS.—A unit heater manufactured  
15 on or after the date that is 3 years after the date of enact-  
16 ment of this subsection shall—

17               “(1) be equipped with an intermittent ignition  
18 device; and

19               “(2) have power venting or an automatic flue  
20 damper.

21       “(bb) MEDIUM-BASE COMPACT FLUORESCENT  
22 LAMPS.—(1) A bare lamp and covered lamp (no reflector)  
23 medium-base compact fluorescent lamp manufactured on  
24 or after January 1, 2006, shall meet the following require-  
25 ments prescribed by the August 9, 2001, version of the

1 Energy Star Program Requirements for Compact Fluores-  
2 cent Lamps, Energy Star Eligibility Criteria, Energy-Effi-  
3 ciency Specification issued by the Environmental Protec-  
4 tion Agency and Department of Energy:

5           “(A) Minimum initial efficacy.

6           “(B) Lumen maintenance at 1,000 hours.

7           “(C) Lumen maintenance at 40 percent of  
8 rated life.

9           “(D) Rapid cycle stress test.

10          “(E) Lamp life.

11          “(2) The Secretary may, by rule, establish require-  
12 ments for color quality (CRI), power factor, operating fre-  
13 quency, and maximum allowable start time based on the  
14 requirements prescribed by the August 9, 2001, version  
15 of the Energy Star Program Requirements for Compact  
16 Fluorescent Lamps.

17          “(3) The Secretary may, by rule—

18           “(A) revise the requirements established under  
19 paragraph (2); or

20           “(B) establish other requirements, after consid-  
21 ering energy savings, cost effectiveness, and con-  
22 sumer satisfaction.

23          “(cc) CEILING FANS AND CEILING FAN LIGHT  
24 KITS.—(1)(A) All ceiling fans manufactured on or after  
25 January 1, 2008, shall have the following features:

1           “(i) Lighting controls separate from fan speed  
2 controls.

3           “(ii) Adjustable speed controls (either more  
4 than 1 speed or variable speed).

5           “(iii) The capability of reversible fan action, ex-  
6 cept for fans sold for industrial applications, outdoor  
7 applications, and where safety standards would be  
8 violated by the use of the reversible mode.

9           “(B) The Secretary may promulgate regulations to  
10 define in greater detail the exceptions provided under sub-  
11 paragraph (A)(iii) but may not substantively expand the  
12 exceptions.

13           “(2) Ceiling fan light kits manufactured on or after  
14 January 1, 2008, shall—

15           “(A) meet the Energy Star Program Require-  
16 ments for Residential Light Fixtures, version 3.1,  
17 issued by the Environmental Protection Agency, and  
18 be packaged with lamps to fill all sockets;

19           “(B) be packaged with screw-based compact  
20 fluorescent lamps to fill all sockets and meet the En-  
21 ergy Star Program Requirements for Compact Fluo-  
22 rescent Lamps, version 3.0, issued by the Depart-  
23 ment of Energy; or

24           “(C) use and be packaged with light sources  
25 other than compact fluorescent lamps that meet the

1 minimum efficacy requirements, as measured in  
2 lumens per watt, of the Energy Star Program Re-  
3 quirements for Compact Fluorescent Lamps, version  
4 3.0, issued by the Department of Energy.

5 “(3)(A) Notwithstanding any provision of this Act,  
6 if the requirements of subsections (o) and (p) are met,  
7 the Secretary may consider and prescribe energy efficiency  
8 or energy use standards for electricity used by ceiling fans  
9 to circulate air in a room.

10 “(B) If the Secretary sets the standards, the Sec-  
11 retary shall consider—

12 “(i) exempting or setting different standards  
13 for certain product classes for which the primary  
14 standards are not technically feasible or economically  
15 justified; and

16 “(ii) establishing separate exempted product  
17 classes for highly decorative fans for which air move-  
18 ment performance is a secondary design feature.

19 “(C) Any air movement standard prescribed under  
20 this subsection shall apply to products manufactured on  
21 or after the date that is 3 years after the date of publica-  
22 tion of a final rule establishing the standard.

23 “(dd) DEHUMIDIFIERS.—(1) Dehumidifiers manu-  
24 factured on or after October 1, 2008, shall have an Energy  
25 Factor that meets or exceeds the following values:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh)</b>
≤ 25 .....	1.00
> 25 – ≤ 35 .....	1.20
> 35 – ≤ 54 .....	1.30
> 54 – < 75 .....	1.50
≥ 75 .....	2.25.

1       “(2)(A) Not later than October 1, 2010, the Sec-  
 2 retary shall publish a final rule in accordance with sub-  
 3 sections (o) and (p), to determine whether the standards  
 4 established under paragraph (1) should be amended.

5       “(B) The final rule shall contain any amendment by  
 6 the Secretary and shall provide that the amendment shall  
 7 apply to products manufactured on or after October 1,  
 8 2012.

9       “(C) If the Secretary does not publish an amendment  
 10 that takes effect by October 1, 2012, dehumidifiers manu-  
 11 factured on or after October 1, 2012, shall have an Energy  
 12 Factor that meets or exceeds the following values:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh)</b>
≤ 25 .....	1.20
> 25 – ≤ 35 .....	1.30
> 35 – ≤ 45 .....	1.40
> 45 – ≤ 54 .....	1.50
> 54 – < 75 .....	1.60
≥ 75 .....	2.5.

13       “(ee) **COMMERCIAL PRERINSE SPRAY VALVES.**—  
 14 Commercial prerinse spray valves manufactured on or  
 15 after January 1, 2006, shall have a flow rate less than  
 16 or equal to 1.6 gallons per minute.

17       “(ff) **EFFECTIVE DATE.**—Section 327 shall apply  
 18 to—

1           “(1) a product for which standards are to be  
2           established under subsections (u) and (v) on the  
3           date on which a final rule is issued by the Depart-  
4           ment of Energy, except that any State or local  
5           standards prescribed or enacted for the product be-  
6           fore the date on which the final rule is issued shall  
7           not be preempted until the standard established  
8           under subsection (u) or (v) for the product takes ef-  
9           fect; and

10           “(2) a product for which standards are estab-  
11           lished under subsections (w) through (ee) on the  
12           date of enactment of those subsections, except that  
13           any State or local standards prescribed or enacted  
14           before the date of enactment of those subsections  
15           shall not be preempted until the standards estab-  
16           lished under subsections (w) through (ee) take ef-  
17           fect.”.

18           (d)   RESIDENTIAL   FURNACE   FANS.—Section  
19   325(f)(3) of the Energy Policy and Conservation Act (42  
20   U.S.C. 6295(f)(3)) is amended by adding at the end the  
21   following:

22           “(D) Notwithstanding any other provision of this Act,  
23   if the requirements of subsection (o) are met, the Sec-  
24   retary may consider and prescribe energy efficiency or en-

1 ergy use standards for electricity used for purposes of cir-  
2 culating air through duct work.”.

3 (e) GENERAL RULE OF PREEMPTION.—Section  
4 327(c) of the Energy Policy and Conservation Act (42  
5 U.S.C. 6297(c)) is amended—

6 (1) in paragraph (5), by striking “or” at the  
7 end;

8 (2) in paragraph (6), by striking the period at  
9 the end and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(7) is a regulation concerning standards for  
12 commercial prerinse spray valves adopted by the  
13 California Energy Commission before January 1,  
14 2005, or is an amendment to such a regulation de-  
15 veloped to align California regulations with changes  
16 in American Society for Testing and Materials Reg-  
17 ulation F2324.”.

18 **SEC. 202. ENERGY LABELING.**

19 (a) RULEMAKING ON EFFECTIVENESS OF CONSUMER  
20 PRODUCT LABELING.—Section 324(a)(2) of the Energy  
21 Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is  
22 amended by adding at the end the following:

23 “(F)(i) Not later than 90 days after the date of en-  
24 actment of this subparagraph, the Commission shall ini-  
25 tiate a rulemaking to consider—

1           “(I) the effectiveness of the consumer products  
2 labeling program in—

3                   “(aa) assisting consumers in making pur-  
4 chasing decisions; and

5                   “(bb) improving energy efficiency; and

6           “(II) changes to the labeling rules that would  
7 improve the effectiveness of consumer product labels.

8           “(ii) Not later than 2 years after the date of enact-  
9 ment of this subparagraph, the Commission shall complete  
10 the rulemaking initiated under clause (i).”.

11           (b) RULEMAKING ON LABELING FOR ADDITIONAL  
12 PRODUCTS.—Section 324(a) of the Energy Policy and  
13 Conservation Act (42 U.S.C. 6294(a)) is amended by add-  
14 ing at the end the following:

15           “(5)(A) After a test procedure has been prescribed  
16 under section 323, the Secretary or the Commission, as  
17 appropriate, may, for covered products referred to in sub-  
18 sections (u) through (ee) of section 325, prescribe, by rule,  
19 under this section, labeling requirements for the products.

20           “(B) In the case of products to which TP–1 stand-  
21 ards under section 325(y) apply, labeling requirements  
22 shall be based on the ‘Standard for the Labeling of Dis-  
23 tribution Transformer Efficiency’ prescribed by the Na-  
24 tional Electrical Manufacturers Association (NEMA TP–  
25 3) as in effect on the date of enactment of this paragraph.

1 “(C) In the case of dehumidifiers covered under sec-  
2 tion 325(dd), the Commission shall not require an Energy  
3 Guide label.

4 “(6)(A) Not later than July 1, 2006, the Commission  
5 shall prescribe by rule, pursuant to this section, labeling  
6 requirements for the electricity used by ceiling fans to cir-  
7 culate air in a room.

8 “(B) The requirements shall be based on the test pro-  
9 cedure and labeling requirements contained in the Energy  
10 Star Program Requirements for Residential Ceiling Fans,  
11 version 2.0, issued by the Environmental Protection Agen-  
12 cy, except that third party testing and other non-labeling  
13 requirements shall not be promulgated unless the Commis-  
14 sion determines the requirements are necessary to achieve  
15 compliance.

16 “(C) The rule shall apply to products manufactured  
17 after the later of—

18 “(i) January 1, 2008; or

19 “(ii) the date that is 60 days after the final rule  
20 is prescribed.”.

21 **SEC. 203. COMMERCIAL PACKAGE AIR CONDITIONING AND**  
22 **HEATING EQUIPMENT.**

23 (a) DEFINITIONS.—Section 340 of the Energy Policy  
24 and Conservation Act (42 U.S.C. 6311) is amended—

25 (1) in paragraph (1)—

1 (A) by redesignating subparagraphs (D)  
2 through (G) as subparagraphs (E) through (H),  
3 respectively; and

4 (B) by inserting after subparagraph (C)  
5 the following:

6 “(D) Very large commercial package air  
7 conditioning and heating equipment.”;

8 (2) in paragraph (2)(B), by striking “small and  
9 large”; and

10 (3) by striking paragraphs (8) and (9) and in-  
11 serting the following:

12 “(8)(A) The term ‘commercial package air con-  
13 ditioning and heating equipment’ means air-cooled,  
14 water-cooled, evaporatively-cooled, or water source  
15 (not including ground water source) electrically oper-  
16 ated, unitary central air conditioners and central air  
17 conditioning heat pumps for commercial application.

18 “(B) The term ‘small commercial package air  
19 conditioning and heating equipment’ means commer-  
20 cial package air conditioning and heating equipment  
21 that is rated below 135,000 Btu per hour (cooling  
22 capacity).

23 “(C) The term ‘large commercial package air  
24 conditioning and heating equipment’ means commer-  
25 cial package air conditioning and heating equipment

1 that is rated at or above 135,000 Btu per hour and  
2 below 240,000 Btu per hour (cooling capacity).

3 “(D) The term ‘very large commercial package  
4 air conditioning and heating equipment’ means com-  
5 mercial package air conditioning and heating equip-  
6 ment that is rated at or above 240,000 Btu per hour  
7 and below 760,000 Btu per hour (cooling capaci-  
8 ty).”.

9 (b) STANDARDS.—Section 342(a) of the Energy Pol-  
10 icy and Conservation Act (42 U.S.C. 6313(a)) is amend-  
11 ed—

12 (1) in the subsection heading, by striking  
13 “SMALL AND LARGE” and inserting “SMALL,  
14 LARGE, AND VERY LARGE”;

15 (2) in paragraph (1), by inserting “but before  
16 January 1, 2010,” after “January 1, 1994,”;

17 (3) in paragraph (2), by inserting “but before  
18 January 1, 2010,” after “January 1, 1995,”; and

19 (4) in paragraph (6)—

20 (A) in subparagraph (A)—

21 (i) by inserting “(i)” after “(A)”;

22 (ii) by striking “the date of enactment  
23 of the Energy Policy Act of 1992” and in-  
24 serting “January 1, 2010”;

1 (iii) by inserting after “large commer-  
2 cial package air conditioning and heating  
3 equipment” the following: “and very large  
4 commercial package air conditioning and  
5 heating equipment, or if ASHRAE/IES  
6 Standard 90.1, as in effect on October 24,  
7 1992, is amended with respect to any”;  
8 and

9 (iv) by adding at the end the fol-  
10 lowing:

11 “(ii) If ASHRAE/IES Standard 90.1 is not amended  
12 with respect to small commercial package air conditioning  
13 and heating equipment, large commercial package air con-  
14 ditioning and heating equipment, and very large commer-  
15 cial package air conditioning and heating equipment dur-  
16 ing the 5-year period beginning on the effective date of  
17 a standard, the Secretary may initiate a rulemaking to  
18 determine whether a more stringent standard would result  
19 in significant additional conservation of energy and is  
20 technologically feasible and economically justified.”; and

21 (B) in subparagraph (C)(ii), by inserting  
22 “and very large commercial package air condi-  
23 tioning and heating equipment” after “large  
24 commercial package air conditioning and heat-  
25 ing equipment”; and

1 (5) by adding at the end the following:

2 “(7) Each small commercial package air conditioning  
3 and heating equipment manufactured on or after January  
4 1, 2010, shall meet the following standards:

5 “(A) The minimum energy efficiency ratio of  
6 air-cooled central air conditioners at or above 65,000  
7 Btu per hour (cooling capacity) and less than  
8 135,000 Btu per hour (cooling capacity) shall be—

9 “(i) 11.2 for equipment with no heating or  
10 electric resistance heating; and

11 “(ii) 11.0 for equipment with all other  
12 heating system types that are integrated into  
13 the equipment (at a standard rating of 95 de-  
14 grees F db).

15 “(B) The minimum energy efficiency ratio of  
16 air-cooled central air conditioner heat pumps at or  
17 above 65,000 Btu per hour (cooling capacity) and  
18 less than 135,000 Btu per hour (cooling capacity)  
19 shall be—

20 “(i) 11.0 for equipment with no heating or  
21 electric resistance heating; and

22 “(ii) 10.8 for equipment with all other  
23 heating system types that are integrated into  
24 the equipment (at a standard rating of 95 de-  
25 grees F db).

1           “(C) The minimum coefficient of performance  
2           in the heating mode of air-cooled central air condi-  
3           tioning heat pumps at or above 65,000 Btu per hour  
4           (cooling capacity) and less than 135,000 Btu per  
5           hour (cooling capacity) shall be 3.3 (at a high tem-  
6           perature rating of 47 degrees F db).

7           “(8) Each large commercial package air conditioning  
8           and heating equipment manufactured on or after January  
9           1, 2010, shall meet the following standards:

10           “(A) The minimum energy efficiency ratio of  
11           air-cooled central air conditioners at or above  
12           135,000 Btu per hour (cooling capacity) and less  
13           than 240,000 Btu per hour (cooling capacity) shall  
14           be—

15                   “(i) 11.0 for equipment with no heating or  
16                   electric resistance heating; and

17                   “(ii) 10.8 for equipment with all other  
18                   heating system types that are integrated into  
19                   the equipment (at a standard rating of 95 de-  
20                   grees F db).

21           “(B) The minimum energy efficiency ratio of  
22           air-cooled central air conditioner heat pumps at or  
23           above 135,000 Btu per hour (cooling capacity) and  
24           less than 240,000 Btu per hour (cooling capacity)  
25           shall be—

1           “(i) 10.6 for equipment with no heating or  
2           electric resistance heating; and

3           “(ii) 10.4 for equipment with all other  
4           heating system types that are integrated into  
5           the equipment (at a standard rating of 95 de-  
6           grees F db).

7           “(C) The minimum coefficient of performance  
8           in the heating mode of air-cooled central air condi-  
9           tioning heat pumps at or above 135,000 Btu per  
10          hour (cooling capacity) and less than 240,000 Btu  
11          per hour (cooling capacity) shall be 3.2 (at a high  
12          temperature rating of 47 degrees F db).

13          “(9) Each very large commercial package air condi-  
14          tioning and heating equipment manufactured on or after  
15          January 1, 2010, shall meet the following standards:

16                 “(A) The minimum energy efficiency ratio of  
17                 air-cooled central air conditioners at or above  
18                 240,000 Btu per hour (cooling capacity) and less  
19                 than 760,000 Btu per hour (cooling capacity) shall  
20                 be—

21                         “(i) 10.0 for equipment with no heating or  
22                         electric resistance heating; and

23                         “(ii) 9.8 for equipment with all other heat-  
24                         ing system types that are integrated into the

1 equipment (at a standard rating of 95 degrees  
2 F db).

3 “(B) The minimum energy efficiency ratio of  
4 air-cooled central air conditioner heat pumps at or  
5 above 240,000 Btu per hour (cooling capacity) and  
6 less than 760,000 Btu per hour (cooling capacity)  
7 shall be—

8 “(i) 9.5 for equipment with no heating or  
9 electric resistance heating; and

10 “(ii) 9.3 for equipment with all other heat-  
11 ing system types that are integrated into the  
12 equipment (at a standard rating of 95 degrees  
13 F db).

14 “(C) The minimum coefficient of performance  
15 in the heating mode of air-cooled central air condi-  
16 tioning heat pumps at or above 240,000 Btu per  
17 hour (cooling capacity) and less than 760,000 Btu  
18 per hour (cooling capacity) shall be 3.2 (at a high  
19 temperature rating of 47 degrees F db).”.

20 (c) TEST PROCEDURES.—Section 343 of the Energy  
21 Policy and Conservation Act (42 U.S.C. 6314) is amended  
22 in subsections (a)(4) and (d)(1), by inserting “very large  
23 commercial package air conditioning and heating equip-  
24 ment,” after “large commercial package air conditioning  
25 and heating equipment,” each place it appears.

1 (d) LABELING.—Section 344(e) of the Energy Policy  
2 and Conservation Act (42 U.S.C. 6315(e)) is amended in  
3 the first and second sentences, by inserting “very large  
4 commercial package air conditioning and heating equip-  
5 ment,” after “large commercial package air conditioning  
6 and heating equipment,” each place it appears.

7 (e) ADMINISTRATION, PENALTIES, ENFORCEMENT,  
8 AND PREEMPTION.—Section 345 of the Energy Policy and  
9 Conservation Act (42 U.S.C. 6316) is amended by adding  
10 at the end the following:

11 “(d)(1) Except as provided in paragraphs (2) and  
12 (3), section 327 shall apply with respect to the equipment  
13 specified in section 340(1)(D) to the same extent and in  
14 the same manner as section 327 applies under part B on  
15 the date of enactment of this subsection.

16 “(2) Any State or local standard prescribed or en-  
17 acted prior to the date of enactment of this subsection  
18 shall not be preempted until the standards established  
19 under section 342(a)(9) take effect on January 1, 2010.

20 “(3) If the California Energy Commission adopts, not  
21 later than March 31, 2006, a regulation concerning the  
22 energy efficiency or energy use of the equipment specified  
23 in section 340(1)(D), the regulation shall be effective  
24 until, and shall no longer be effective after, the standards

1 established under section 342(a)(9) take effect on January  
2 1, 2010.”.

3 **SEC. 204. COMMERCIAL REFRIGERATORS, FREEZERS, AND**  
4 **REFRIGERATOR-FREEZERS.**

5 (a) DEFINITIONS.—Section 340 of the Energy Policy  
6 and Conservation Act (42 U.S.C. 6311), as amended by  
7 section 203, is amended—

8 (1) in paragraph (1)—

9 (A) by redesignating subparagraph (H) as  
10 subparagraph (I); and

11 (B) by inserting after subparagraph (G)  
12 the following:

13 “(H) commercial refrigerators, freezers, and re-  
14 frigerator-freezers.”; and

15 (2) by adding at the end the following:

16 “(19)(A) The term ‘commercial refrigerator,  
17 freezer, and refrigerator-freezer’ means refrigeration  
18 equipment that—

19 “(i) is not a consumer product (as defined  
20 in section 321);

21 “(ii) operates at a chilled, frozen, combina-  
22 tion chilled and frozen, or variable temperature;

23 “(iii) displays or stores merchandise and  
24 other perishable materials horizontally,  
25 semivertically, or vertically;

1           “(iv) has transparent or solid doors, sliding  
2           or hinged doors, a combination of hinged, slid-  
3           ing, transparent, or solid doors, or no doors;

4           “(v) is designed for pull-down temperature  
5           applications or holding temperature applica-  
6           tions; and

7           “(vi) is connected to a self-contained con-  
8           densing unit or to a remote condensing unit.

9           “(B) The term ‘holding temperature applica-  
10          tion’ means a use of commercial refrigeration equip-  
11          ment other than a pull-down temperature applica-  
12          tion, except a blast chiller or freezer.

13          “(C) The term ‘integrated average temperature’  
14          means the average temperature of all test package  
15          measurements taken during the test.

16          “(D) The term ‘pull-down temperature applica-  
17          tion’ means a commercial refrigerator with doors  
18          that, when fully loaded with 12 ounce beverage cans  
19          at 90 degrees F, can cool those beverages to an av-  
20          erage stable temperature of 38 degrees F in 12  
21          hours or less.

22          “(E) The term ‘remote condensing unit’ means  
23          a factory-made assembly of refrigerating components  
24          designed to compress and liquefy a specific refrigerant  
25          that is remotely located from the refrigerated

1 equipment and consists of 1 or more refrigerant  
2 compressors, refrigerant condensers, condenser fans  
3 and motors, and factory supplied accessories.

4 “(F) The term ‘self-contained condensing unit’  
5 means a factory-made assembly of refrigerating com-  
6 ponents designed to compress and liquefy a specific  
7 refrigerant that is an integral part of the refrig-  
8 erated equipment and consists of 1 or more refrig-  
9 erant compressors, refrigerant condensers, condenser  
10 fans and motors, and factory supplied accessories.”.

11 (b) STANDARDS.—Section 342 of the Energy Policy  
12 and Conservation Act (42 U.S.C. 6313) is amended by  
13 adding at the end the following:

14 “(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND  
15 REFRIGERATOR-FREEZERS.—(1) In this subsection:

16 “(A) The term ‘AV’ means the adjusted volume  
17 (ft<sup>3</sup>) (defined as 1.63 x frozen temperature compart-  
18 ment volume (ft<sup>3</sup>) + chilled temperature compart-  
19 ment volume (ft<sup>3</sup>)) with compartment volumes meas-  
20 ured in accordance with the Association of Home  
21 Appliance Manufacturers Standard HRF1–1979.

22 “(B) The term ‘V’ means the chilled or frozen  
23 compartment volume (ft<sup>3</sup>) (as defined in the Asso-  
24 ciation of Home Appliance Manufacturers Standard  
25 HRF1–1979).

1           “(C) Other terms have the meanings estab-  
 2           lished by the Secretary, based on industry-accepted  
 3           definitions and practice.

4           “(2) Each commercial refrigerator, freezer, and re-  
 5           frigerator-freezer with a self-contained condensing unit de-  
 6           signed for holding temperature applications manufactured  
 7           on or after January 1, 2010, shall meet the following  
 8           standard levels in kilowatt hours per day:

“Refrigerators with solid doors .....	0.10 V + 2.04
Refrigerators with transparent doors .....	0.12 V + 3.34
Freezers with solid doors .....	0.40 V + 1.38
Freezers with transparent doors .....	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV – 0.71 or 0.70

9           “(3) Each commercial refrigerator with a self-con-  
 10          tained condensing unit designed for pull-down tempera-  
 11          ture applications manufactured on or after January 1,  
 12          2010, shall meet the following standard levels in kilowatt  
 13          hours per day: Refrigerators with transparent doors 0.126  
 14          V + 3.51.

15          “(4)(A) Not later than January 1, 2009, the Sec-  
 16          retary of Energy shall prescribe, by rule, standard levels  
 17          for ice-cream freezers, self-contained commercial refrig-  
 18          erators, freezers, and refrigerator-freezers without doors,  
 19          and remote condensing commercial refrigerators, freezers,  
 20          and refrigerator-freezers, with the standard levels effective  
 21          for equipment manufactured on or after January 1, 2012.

1       “(B) Not later than January 1, 2009, the Secretary  
2 shall prescribe, by rule, standard levels for other types of  
3 commercial refrigerators, freezers, and refrigerator-freez-  
4 ers not covered by paragraphs (1), (2), and (3) and sub-  
5 paragraph (A) with the standard levels effective for equip-  
6 ment manufactured on or after January 1, 2012.

7       “(5)(A)(i) Not later than January 1, 2013, the Sec-  
8 retary shall publish a final rule to determine if the stand-  
9 ards established under paragraphs (1), (2), (3), and  
10 (4)(A) should be amended.

11       “(ii) The rule shall provide that any amended stand-  
12 ards shall apply to products manufactured on or after the  
13 date that is 3 years after the final amended standard is  
14 published unless the Secretary determines, by rule, that  
15 3 years is inadequate, in which case the Secretary may  
16 establish an application date for products manufactured  
17 not later than 5 years after the final amended standard  
18 is published.

19       “(B)(i) Not later than 3 years after the amended  
20 final standard referred to in subparagraph (A) takes effect  
21 or after the Secretary publishes a final rule determining  
22 that the standard should not be amended, the Secretary  
23 shall publish a final rule to determine if the standards es-  
24 tablished under paragraphs (1), (2), (3), and (4)(A)  
25 should be amended.

1       “(ii) The rule shall provide that any amended stand-  
2 ards shall apply to products manufactured on or after the  
3 date that is 3 years after the final amended standard is  
4 published unless the Secretary determines, by rule, that  
5 3 years is inadequate, in which case the Secretary may  
6 establish an application date for products manufactured  
7 not later than 5 years after the final amended standard  
8 is published.”.

9       (c) TEST PROCEDURES.—Section 343 of the Energy  
10 Policy and Conservation Act (42 U.S.C. 6314) is amend-  
11 ed—

12           (1) in subsection (a), by adding at the end the  
13 following:

14       “(6)(A)(i) In the case of commercial refrigerators,  
15 freezers, and refrigerator-freezers, the test procedures  
16 shall be the test procedures determined by the Secretary  
17 to be generally accepted industry testing procedures or  
18 rating procedures developed or recognized by the  
19 ASHRAE or by the American National Standards Insti-  
20 tute.

21       “(ii) In the case of self-contained refrigerators, freez-  
22 ers, and refrigerator-freezers to which standards are appli-  
23 cable under subsection 342(c)(1), the initial test proce-  
24 dures shall be ASHRAE 117 that is in effect on January  
25 1, 2005.

1       “(B)(i) In the case of commercial refrigerators, freez-  
2       ers, and refrigerators-freezers with doors covered by the  
3       standards adopted in February 2002, by the California  
4       Energy Commission, the rating temperatures shall be the  
5       integrated average temperature of 38 degrees F (+/- 2  
6       degrees F) for refrigerator compartments and 0 degrees  
7       F (+/- 2 degrees F) for freezer compartments.

8       “(C) The Secretary shall prescribe a rule, that meets  
9       the requirements of paragraphs (2) and (3), to establish  
10      the appropriate rating temperatures for the other products  
11      for which standards will be established under subsection  
12      342(e)(2).

13      “(D) In establishing the appropriate test tempera-  
14      tures under this subparagraph, the Secretary shall follow  
15      the procedures and meet the requirements specified in sec-  
16      tion 323(e).

17      “(E)(i) Not later than 180 days after the publication  
18      of the new ASHRAE 117 test procedure, if the ASHRAE  
19      117 test procedure for commercial refrigerators, freezers,  
20      and refrigerator-freezers is amended, the Secretary shall,  
21      by rule, amend the test procedure for the product as nec-  
22      essary to be consistent with the amended ASHRAE 117  
23      test procedure unless the Secretary makes a determina-  
24      tion, by rule, and supported by clear and convincing evi-

1 dence, that to do so would not meet the requirements for  
2 test procedures described in paragraphs (2) and (3).

3 “(ii) If the Secretary needs more than 180 days to  
4 review and adopt the amended test procedure or rating  
5 procedure, the Secretary shall publish a notice in the Fed-  
6 eral Register stating the intent of the Secretary to take  
7 up to an additional 1 year before the amended test proce-  
8 dure or rating procedure would become effective.

9 “(F)(i) If another test procedure besides ASHRAE  
10 117 is approved by the American National Standards In-  
11 stitute, the Secretary shall, by rule—

12 “(I) review the relative strengths and weak-  
13 nesses of the new test procedure relative to  
14 ASHRAE 117; and

15 “(II) based on that review, adopt 1 of those test  
16 procedures for subsequent use in the standards pro-  
17 gram.

18 “(ii) If a new test procedure is adopted—

19 “(I) section 323(e) shall apply; and

20 “(II) subparagraph (B) shall apply to the  
21 adopted test procedure.”; and

22 (2) in subsection (d)(1), by striking “and  
23 unfired hot water storage tanks,” and inserting:  
24 “unfired hot water storage tanks, and commercial  
25 refrigerators, freezers, and refrigerator-freezers.”.

1 (d) LABELING.—Section 344(e) of the Energy Policy  
2 and Conservation Act (42 U.S.C. 6315(e)), as amended  
3 by section 203(d), is amended by striking “and unfired  
4 hot water storage tanks” each place it appears and insert-  
5 ing “unfired hot water storage tanks, and commercial re-  
6 frigerators, freezers, and refrigerator-freezers”.

7 (e) ADMINISTRATION, PENALTIES, ENFORCEMENT,  
8 AND PREEMPTION.—Section 345 of the Energy Policy and  
9 Conservation Act (42 U.S.C. 6316), as amended by sec-  
10 tion 203(e), is amended by adding at the end the fol-  
11 lowing:

12 “(e)(1)(A) The provisions of subsections (a), (b), and  
13 (d) of section 326, subsections (m) through (s) of section  
14 325, and sections 328 through 336 shall apply with re-  
15 spect to equipment specified in section 340(1)(G) to the  
16 same extent and in the same manner as those provisions  
17 apply under part B.

18 “(B) In applying those provisions to that equipment,  
19 paragraphs (1), (2), (3), and (4) of subsection (a) shall  
20 apply.

21 “(2)(A)(i) The provisions of section 327 shall apply  
22 with respect to the equipment specified in section  
23 340(1)(G) that have standards established under section  
24 342(e)(2) to the same extent and in the same manner as  
25 those provisions apply under part B on the date of enact-

1 ment of this subsection, except that any State or local  
2 standard prescribed or enacted before the date of enact-  
3 ment of this subsection shall not be preempted until the  
4 standards established under section 342(c) take effect.

5       “(ii) In applying those provisions to that equipment,  
6 paragraphs (1), (2), and (3) of subsection (a) shall apply.

7       “(B) Notwithstanding subparagraph (A), if the Cali-  
8 fornia Energy Commission adopts, not later than March  
9 31, 2005, a regulation concerning the energy efficiency or  
10 energy use of the equipment specified in section 340(1)(G)  
11 that have standards established under section 342(c)(2),  
12 those standards shall be effective until, and shall no longer  
13 be effective after, the standards established under section  
14 342(c)(2) take effect on January 1, 2010.

15       “(3)(A) The provisions of section 327 shall apply  
16 with respect to the equipment specified in 340(1)(G) that  
17 have standards established under section 342(c)(3) to the  
18 same extent and in the same manner as they apply under  
19 part B on the date of publication of the final rule by the  
20 Secretary, except that any State or local standard pre-  
21 scribed or enacted before the date of publication of the  
22 final rule by the Secretary shall not be preempted until  
23 the standards take effect.

1       “(B) In applying those provisions for the purpose of  
2 that equipment, paragraphs (1), (2), and (3) of subsection  
3 (a) shall apply.

4       “(4) If the Secretary does not issue a final rule for  
5 a specific type of equipment specified in section 340(1)(G)  
6 within the time frame specified in section 342(c)(3), the  
7 provisions of subsections (b) and (c) of section 327 shall  
8 no longer apply to that specific type of equipment begin-  
9 ning on the date that is 2 years after the scheduled date  
10 for a final rule and until the Secretary publishes a final  
11 rule covering the specific type of equipment, at which time  
12 those provisions shall apply to the specific type of equip-  
13 ment.

14       “(5)(A) In the case of any commercial refrigerator,  
15 freezer, and refrigerator-freezer to which standards are  
16 applicable under section 342(c)(2), the Secretary shall re-  
17 quire manufacturers to certify, through an independent  
18 testing or certification program nationally recognized in  
19 the United States, that the commercial refrigerator, freez-  
20 er, and refrigerator-freezer meets the applicable standard.

21       “(B) The Secretary shall, to the maximum extent  
22 practicable, encourage the establishment of at least 2 such  
23 independent testing and certification programs.

1 “(C) As part of certification, information on equip-  
 2 ment energy use and interior volume shall be made avail-  
 3 able to the Secretary.”.

4 **TITLE III—ENERGY EFFICIENT**  
 5 **FEDERAL PROGRAMS**

6 **SEC. 301. PROCUREMENT OF ENERGY EFFICIENT PROD-**  
 7 **UCTS.**

8 (a) REQUIREMENTS.—Part 3 of title V of the Na-  
 9 tional Energy Conservation Policy Act is amended—

10 (1) by redesignating section 551 (42 U.S.C.  
 11 8259) as section 552; and

12 (2) by inserting after section 550 (42 U.S.C.  
 13 8258b) the following:

14 **“SEC. 551. FEDERAL PROCUREMENT OF ENERGY EFFI-**  
 15 **CIENT PRODUCTS.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) The term ‘Energy Star product’ means a  
 18 product that is rated for energy efficiency under an  
 19 Energy Star program.

20 “(2) The term ‘Energy Star program’ means  
 21 the Energy Star program of the Environmental Pro-  
 22 tection Agency.

23 “(3) The term ‘executive agency’ has the mean-  
 24 ing given the term in section 4 of the Office of Fed-  
 25 eral Procurement Policy Act (41 U.S.C. 403).

1           “(4) The term ‘FEMP designated product’  
2 means a product that is designated under the Fed-  
3 eral Energy Management Program of the Depart-  
4 ment of Energy as being among the highest 25 per-  
5 cent of equivalent products for energy efficiency.

6           “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-  
7 UCTS.—(1) Except as provided in paragraph (2), to meet  
8 the requirements of an executive agency for an energy con-  
9 suming product, the head of the executive agency shall  
10 procure—

11           “(A) an Energy Star product; or

12           “(B) a FEMP designated product.

13           “(2) The head of an executive agency shall not be  
14 required to comply with paragraph (1) if the head of the  
15 executive agency specifies in writing that—

16           “(A) taking into account energy cost savings,  
17 an Energy Star product or FEMP designated prod-  
18 uct is not cost-effective over the life of the product;  
19 or

20           “(B) no Energy Star product or FEMP des-  
21 ignated product is reasonably available that meets  
22 the functional requirements of the executive agency.

23           “(3) The head of an executive agency shall incor-  
24 porate criteria for energy efficiency that are consistent

1 with the criteria used for rating Energy Star products and  
2 FEMP designated products into—

3 “(A) the specifications for any procurements in-  
4 volving energy consuming products and systems, in-  
5 cluding—

6 “(i) guide specifications;

7 “(ii) project specifications; and

8 “(iii) construction, renovation, and services  
9 contracts that include the provision of energy  
10 consuming products and systems; and

11 “(B) the factors for the evaluation of offers re-  
12 ceived for the procurement.

13 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN  
14 FEDERAL CATALOGS.—(1) Any inventory or listing of  
15 products by the General Services Administration or the  
16 Defense Logistics Agency shall clearly identify and promi-  
17 nently display Energy Star products and FEMP des-  
18 ignated products.

19 “(2)(A) Except as provided in subparagraph (B), the  
20 General Services Administration or the Defense Logistics  
21 Agency shall supply only Energy Star products or FEMP  
22 designated products for all product categories covered by  
23 the Energy Star program or the Federal Energy Manage-  
24 ment Program.

1 “(B) Subparagraph (A) shall not apply if an agency  
2 ordering a product specifies in writing that—

3 “(i) taking into account energy cost savings, no  
4 Energy Star product or FEMP designated product  
5 is cost-effective for the intended application over the  
6 life of the product; or

7 “(ii) no Energy Star product or FEMP des-  
8 ignated product is available to meet the functional  
9 requirements of the ordering agency.

10 “(d) SPECIFIC PRODUCTS.—(1) In the case of an  
11 electric motor of 1 to 500 horsepower, an executive agency  
12 shall select only a premium efficient motor that meets the  
13 standard established by the Secretary under paragraph  
14 (2).

15 “(2) Not later than 120 days after the date of enact-  
16 ment of this subsection and after considering the rec-  
17 ommendations of associated electric motor manufacturers  
18 and energy efficiency groups, the Secretary shall establish  
19 a standard for premium efficient motors.

20 “(3)(A) Each Federal agency is encouraged to take  
21 actions (such as appropriate cleaning and maintenance)  
22 to maximize the efficiency of air conditioning and refrig-  
23 eration equipment, including the use of a system treat-  
24 ment or additive that—

1           “(i) would reduce the electricity consumed by  
2           air conditioning and refrigeration equipment; and

3           “(ii) meets the criteria specified in subpara-  
4           graph (B).

5           “(B) A system treatment or additive referred to in  
6           subparagraph (A) shall be—

7           “(i) determined by the Secretary to be effective  
8           in increasing the efficiency of air conditioning and  
9           refrigeration equipment without having an adverse  
10          impact on—

11                   “(I) air conditioning and refrigeration per-  
12                   formance (including cooling capacity); or

13                   “(II) the useful life of the equipment;

14          “(ii) determined by the Administrator of the  
15          Environmental Protection Agency to be environ-  
16          mentally safe; and

17           “(iii) shown, in tests conducted by the National  
18          Institute of Standards and Technology, in accord-  
19          ance with Department of Energy test procedures, to  
20          increase the seasonal energy efficiency ratio (SEER)  
21          or energy efficiency ratio (EER) without having any  
22          adverse impact on the system, system components,  
23          the refrigerant or lubricant, or other materials in the  
24          system.

1       “(4) The results of the tests described in paragraph  
2 (3)(B)(iii) shall be published in the Federal Register for  
3 public review and comment.

4       “(5) For purposes of this subsection, a hardware de-  
5 vice or primary refrigerant shall not be considered an ad-  
6 ditive.

7       “(e) REGULATIONS.—Not later than 180 days after  
8 the date of enactment of this section, the Secretary shall  
9 issue guidelines to carry out this section.”.

10       (b) CONFORMING AMENDMENT.—The table of con-  
11 tents of the National Energy Conservation Policy Act is  
12 amended—

13             (1) by redesignating the item relating to section  
14       551 as section 552; and

15             (2) by inserting after the item relating to sec-  
16       tion 550 the following:

“Sec. 551. Federal procurement of energy efficient products.”.

17 **SEC. 302. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

18       (a) PERMANENT EXTENSION.—Effective September  
19 30, 2005, section 801 of the National Energy Conserva-  
20 tion Policy Act (42 U.S.C. 8287) is amended by striking  
21 subsection (c).

22       (b) PAYMENT OF COSTS.—Section 802 of the Na-  
23 tional Energy Conservation Policy Act (42 U.S.C. 8287a)  
24 is amended by inserting “, water, or wastewater treat-  
25 ment” after “payment of energy”.

1           (c) ENERGY SAVINGS.—Section 804 of the National  
2 Energy Conservation Policy Act (42 U.S.C. 8287c) is  
3 amended by striking paragraph (2) and inserting the fol-  
4 lowing:

5           “(2) The term ‘energy savings’ means a reduc-  
6 tion in the cost of energy, water, or wastewater  
7 treatment, from a base cost established through a  
8 methodology set forth in the contract, used in 1 or  
9 more existing federally owned buildings or other fed-  
10 erally owned facilities as a result of—

11           “(A) the lease or purchase of operating  
12 equipment, improvements, altered operation and  
13 maintenance, or technical services;

14           “(B) the increased efficient use of existing  
15 energy sources by cogeneration or heat recov-  
16 ery, excluding any cogeneration process for  
17 other than a federally owned building or build-  
18 ings or other federally owned facilities; or

19           “(C) the increased efficient use of existing  
20 water sources in interior or exterior applica-  
21 tions.”.

22           (d) ENERGY SAVINGS CONTRACT.—Section 804 of  
23 the National Energy Conservation Policy Act (42 U.S.C.  
24 8287c) is amended by striking paragraph (3) and insert-  
25 ing the following:

1           “(3)(A) The terms ‘energy savings contract’  
2           and ‘energy savings performance contract’ mean a  
3           contract that provides for the performance of serv-  
4           ices for the design, acquisition, installation, testing,  
5           and, as appropriate, operation, maintenance, and re-  
6           pair, of an identified energy or water conservation  
7           measure or series of measures at 1 or more loca-  
8           tions.

9           “(B) With respect to an agency facility that is  
10          a public building (as defined in section 3301 of title  
11          40, United States Code), a contract described in  
12          subparagraph (A) shall be in compliance with the  
13          prospectus requirements and procedures of section  
14          3307 of title 40, United States Code.”.

15          (e) ENERGY OR WATER CONSERVATION MEASURE.—  
16          Section 804(4) of the National Energy Conservation Pol-  
17          icy Act (42 U.S.C. 8287c(4)) is amended to read as fol-  
18          lows:

19                 “(4) The term ‘energy or water conservation  
20                 measure’ means—

21                         “(A) an energy conservation measure (as  
22                         defined in section 551); or

23                         “(B) a water conservation measure at a  
24                         non-Federal hydroelectric facility that—

- 1                   “(i) improves the efficiency of water  
2                   use;  
3                   “(ii) is life-cycle cost-effective; and  
4                   “(iii) involves—  
5                       “(I) water conservation, recy-  
6                   cling, or reuse;  
7                       “(II) more efficient treatment of  
8                   wastewater or stormwater;  
9                       “(III) improvements in operation  
10                  or maintenance efficiencies;  
11                  “(IV) retrofit activities; or  
12                  “(V) other related activities.”.

13           (f) REVIEW.—

14                   (1) IN GENERAL.—Not later than 180 days  
15                   after the date of enactment of this Act, the Sec-  
16                   retary of Energy shall complete a review of the en-  
17                   ergy savings performance contract program carried  
18                   out under title VIII of the National Energy Con-  
19                   servation Policy Act (42 U.S.C. 8287 et seq.) to  
20                   identify—

21                           (A) statutory, regulatory, and administra-  
22                           tive obstacles that prevent Federal agencies  
23                           from fully using the program; and

24                           (B) any areas for increasing program flexi-  
25                           bility and effectiveness, including—

- 1 (i) audit and measurement verification  
2 requirements;
- 3 (ii) accounting for energy use in de-  
4 termining savings;
- 5 (iii) contracting requirements, includ-  
6 ing the identification of additional qualified  
7 contractors; and
- 8 (iv) energy efficiency services covered.

9 (2) REPORT.—The Secretary shall—

10 (A) submit to Congress a report that de-  
11 scribes the findings of the Secretary under  
12 paragraph (1); and

13 (B) to the extent that the changes are con-  
14 sistent with statutory authority, implement the  
15 identified administrative and regulatory changes  
16 to increase program flexibility and effectiveness.

17 (g) EXTENSION OF AUTHORITY.—Any energy sav-  
18 ings performance contract entered into under section 801  
19 of the National Energy Conservation Policy Act (42  
20 U.S.C. 8287) after October 1, 2004, and before the date  
21 of enactment of this Act, shall be deemed to have been  
22 entered into under that section.

23 **SEC. 303. FEDERAL BUILDING PERFORMANCE STANDARDS.**

24 Section 305(a) of the Energy Conservation and Pro-  
25 duction Act (42 U.S.C. 6834(a)) is amended—

1           (1) in paragraph (2)(A), by striking “CABO  
2           Model Energy Code, 1992” and inserting “the 2003  
3           International Energy Conservation Code, as such  
4           Code (including supplements) is in effect on the date  
5           of the enactment of the Efficient Energy Through  
6           Certified Technologies and Electricity Reliability  
7           (EFFECTER) Act of 2005”; and

8           (2) by adding at the end the following:

9           “(3)(A) Not later than 1 year after the date of enact-  
10          ment of this paragraph, there shall be establish, by rule,  
11          revised Federal building energy efficiency performance  
12          standards that require that—

13                 “(i) if life-cycle cost-effective for new Federal  
14          buildings—

15                         “(I) the buildings be designed to achieve  
16                         energy consumption levels that are at least 30  
17                         percent below the levels established in the  
18                         version of the ASHRAE Standard or the Inter-  
19                         national Energy Conservation Code, as appro-  
20                         priate, that is in effect as of the date of enact-  
21                         ment of this paragraph; and

22                         “(II) sustainable design principles are ap-  
23                         plied to the siting, design, and construction of  
24                         all new and replacement buildings; and

1           “(ii) if water is used to achieve energy effi-  
2           ciency, water conservation technologies shall be ap-  
3           plied to the extent that the technologies are life-cycle  
4           cost-effective.

5           “(B) Not later than 1 year after the date of approval  
6 of each subsequent revision of the ASHRAE Standard or  
7 the International Energy Conservation Code, as appro-  
8 priate, the Secretary shall determine, based on the cost-  
9 effectiveness of the requirements under the amendment,  
10 whether the revised standards established under this para-  
11 graph should be updated to reflect the amendment.

12          “(C) In the budget request of the Federal agency for  
13 each fiscal year and each report submitted by the Federal  
14 agency under section 548(a) of the National Energy Con-  
15 servation Policy Act (42 U.S.C. 8258(a)), the head of each  
16 Federal agency shall include—

17           “(i) a list of all new Federal buildings owned,  
18           operated, or controlled by the Federal agency; and

19           “(ii) a statement specifying whether the Federal  
20           buildings meet or exceed the revised standards es-  
21           tablished under this paragraph.”.

## 22           **TITLE IV—PUBLIC HOUSING**

### 23           **SEC. 401. PUBLIC HOUSING CAPITAL FUND.**

24           Section 9 of the United States Housing Act of 1937  
25 (42 U.S.C. 1437g) is amended—

1 (1) in subsection (d)(1)—

2 (A) in subparagraph (I), by striking “and”  
3 at the end;

4 (B) in subparagraph (J), by striking the  
5 period at the end and inserting a semicolon;  
6 and

7 (C) by adding at the end the following new  
8 subparagraphs:

9 “(K) improvement of energy and water-use  
10 efficiency by installing fixtures and fittings that  
11 conform to the American Society of Mechanical  
12 Engineers/American National Standards Insti-  
13 tute standards A112.19.2–1998 and  
14 A112.18.1–2000, or any revision thereto, appli-  
15 cable at the time of installation, and by increas-  
16 ing energy efficiency and water conservation by  
17 such other means as the Secretary determines  
18 are appropriate; and

19 “(L) integrated utility management and  
20 capital planning to maximize energy conserva-  
21 tion and efficiency measures.”; and

22 (2) in subsection (e)(2)(C)—

23 (A) by striking “The” and inserting the  
24 following:

25 “(i) IN GENERAL.—The”; and

1 (B) by adding at the end the following:

2 “(ii) THIRD-PARTY CONTRACTS.—  
3 Contracts described in clause (i) may in-  
4 clude contracts for equipment conversions  
5 to less costly utility sources, projects with  
6 resident-paid utilities, and adjustments to  
7 frozen base year consumption, including  
8 systems repaired to meet applicable build-  
9 ing and safety codes and adjustments for  
10 occupancy rates increased by rehabilita-  
11 tion.

12 “(iii) TERM OF CONTRACT.—The total  
13 term of a contract described in clause (i)  
14 shall not exceed 20 years to allow longer  
15 payback periods for retrofits, including  
16 windows, heating system replacements,  
17 wall insulation, site-based generation, ad-  
18 vanced energy savings technologies, includ-  
19 ing renewable energy generation, and other  
20 such retrofits.”.

21 **SEC. 402. GRANTS FOR ENERGY-CONSERVING IMPROVE-**  
22 **MENTS FOR ASSISTED HOUSING.**

23 Section 251(b)(1) of the National Energy Conserva-  
24 tion Policy Act (42 U.S.C. 8231(1)) is amended—

1 (1) by striking “financed with loans” and in-  
2 serting “assisted”;

3 (2) by inserting after “1959,” the following:  
4 “which are eligible multifamily housing projects (as  
5 such term is defined in section 512 of the Multi-  
6 family Assisted Housing Reform and Affordability  
7 Act of 1997 (42 U.S.C. 1437f note)) and are subject  
8 to mortgage restructuring and rental assistance suf-  
9 ficiency plans under such Act,”; and

10 (3) by inserting after the period at the end of  
11 the first sentence the following new sentence: “Such  
12 improvements may also include the installation of  
13 energy and water conserving fixtures and fittings  
14 that conform to the American Society of Mechanical  
15 Engineers/American National Standards Institute  
16 standards A112.19.2–1998 and A112.18.1–2000, or  
17 any revision thereto, applicable at the time of instal-  
18 lation.”.

19 **SEC. 403. ENERGY-EFFICIENT APPLIANCES.**

20 In purchasing appliances, a public housing agency  
21 shall purchase energy-efficient appliances that are Energy  
22 Star products or FEMP-designated products, as such  
23 terms are defined in section 553 of the National Energy  
24 Conservation Policy Act (as amended by this subtitle), un-

1 less the purchase of energy-efficient appliances is not cost-  
2 effective to the agency.

3 **SEC. 404. ENERGY EFFICIENCY STANDARDS.**

4 Section 109 of the Cranston-Gonzalez National Af-  
5 fordable Housing Act (42 U.S.C. 12709) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) by striking “1 year after the date  
9 of the enactment of the Energy Policy Act  
10 of 1992” and inserting “September 30,  
11 2005”;

12 (ii) in subparagraph (A), by striking  
13 “and” at the end;

14 (iii) in subparagraph (B), by striking  
15 the period at the end and inserting “;  
16 and”;

17 (iv) by adding at the end the fol-  
18 lowing:

19 “(C) rehabilitation and new construction of  
20 public and assisted housing funded by HOPE  
21 VI revitalization grants under section 24 of the  
22 United States Housing Act of 1937 (42 U.S.C.  
23 1437v), where such standards are determined  
24 to be cost effective by the Secretary of Housing  
25 and Urban Development.”; and

1 (B) in paragraph (2), by striking “Council  
2 of American” and all that follows through  
3 “90.1–1989’)” and inserting “2003 Inter-  
4 national Energy Conservation Code, as such  
5 Code (including supplements) is in effect on the  
6 date of the enactment of the Efficient Energy  
7 Through Certified Technologies and Electricity  
8 Reliability (EFFECTER) Act of 2005”;

9 (2) in subsection (b)—

10 (A) by striking “within 1 year after the  
11 date of the enactment of the Energy Policy Act  
12 of 1992” and inserting “by September 30,  
13 2005”; and

14 (B) by striking “CABO” and all that fol-  
15 lows through “1989” and inserting “2003  
16 International Energy Conservation Code, as  
17 such Code (including supplements) is in effect  
18 on the date of the enactment of the Efficient  
19 Energy Through Certified Technologies and  
20 Electricity Reliability (EFFECTER) Act of  
21 2005”; and

22 (3) in subsection (c)—

23 (A) in the heading, by striking “MODEL  
24 ENERGY CODE” and inserting “THE INTER-

1 NATIONAL ENERGY CONSERVATION CODE”;  
2 and

3 (B) by striking “CABO” and all that fol-  
4 lows through “1989” and inserting “the 2003  
5 International Energy Conservation Code, as  
6 such Code (including supplements) is in effect  
7 on the date of the enactment of the Efficient  
8 Energy Through Certified Technologies and  
9 Electricity Reliability (EFFECTER) Act of  
10 2005”.

11 **TITLE V—RELIABILITY**  
12 **STANDARDS**

13 **SEC. 501. ELECTRIC RELIABILITY STANDARDS.**

14 (a) IN GENERAL.—Part II of the Federal Power Act  
15 (16 U.S.C 824 et seq.) is amended by adding at the end  
16 the following:

17 **“SEC. 215. ELECTRIC RELIABILITY.**

18 “(a) DEFINITIONS.—In this section:

19 “(1)(A) The term ‘bulk-power system’ means—

20 “(i) facilities and control systems necessary  
21 for operating an interconnected electric energy  
22 transmission network (or any portion thereof);  
23 and

1           “(ii) electric energy from generation facili-  
2           ties needed to maintain transmission system re-  
3           liability.

4           “(B) The term ‘bulk-power system’ does not in-  
5           clude facilities used in the local distribution of elec-  
6           tric energy.

7           “(2) The terms ‘Electric Reliability Organiza-  
8           tion’ and ‘ERO’ mean the organization certified by  
9           the Commission under subsection (c) the purpose of  
10          which is to establish and enforce reliability stand-  
11          ards for the bulk-power system, subject to Commis-  
12          sion review.

13          “(3) The term ‘interconnection’ means a geo-  
14          graphic area in which the operation of bulk-power  
15          system components is synchronized such that the  
16          failure of 1 or more of such components may ad-  
17          versely affect the ability of the operators of other  
18          components within the system to maintain reliable  
19          operation of the facilities within their control.

20          “(4) The term ‘regional entity’ means an entity  
21          having enforcement authority pursuant to subsection  
22          (e)(4).

23          “(5)(A) The term ‘reliability standard’ means a  
24          requirement, approved by the Commission under this

1 section, to provide for reliable operation of the bulk-  
2 power system.

3 “(B) The term ‘reliability standard’ includes re-  
4 quirements for the operation of existing bulk-power  
5 system facilities and the design of planned additions  
6 or modifications to those facilities to the extent nec-  
7 essary to provide for reliable operation of the bulk-  
8 power system.

9 “(C) The term ‘reliability standard’ does not in-  
10 clude any requirement to enlarge a facility described  
11 in subparagraph (B) or to construct new trans-  
12 mission capacity or generation capacity.

13 “(6) The term ‘reliable operation’ means oper-  
14 ating the elements of the bulk-power system within  
15 equipment and electric system thermal, voltage, and  
16 stability limits so that instability, uncontrolled sepa-  
17 ration, or cascading failures of such system will not  
18 occur as a result of a sudden disturbance or unan-  
19 ticipated failure of system elements.

20 “(7) The term ‘transmission organization’  
21 means a regional transmission organization, inde-  
22 pendent system operator, independent transmission  
23 provider, or other transmission organization finally  
24 approved by the Commission for the operation of  
25 transmission facilities.

1       “(b) JURISDICTION AND APPLICABILITY.—(1)(A)  
2 The Commission shall have jurisdiction, within the United  
3 States, over the ERO certified by the Commission under  
4 subsection (c), any regional entities, and all users, owners  
5 and operators of the bulk-power system, including the en-  
6 tities described in section 201(f), for purposes of approv-  
7 ing reliability standards established under this section and  
8 enforcing compliance with this section.

9       “(B) All users, owners, and operators of the bulk-  
10 power system shall comply with reliability standards that  
11 take effect under this section.

12       “(2) Not later than 180 days after the date of enact-  
13 ment of this section, the Commission shall issue a final  
14 rule to implement this section.

15       “(c) CERTIFICATION.—(1) Following the issuance of  
16 a Commission rule under subsection (b)(2), any person  
17 may submit an application to the Commission for certifi-  
18 cation as the Electric Reliability Organization.

19       “(2) The Commission may certify an ERO described  
20 in paragraph (1) if the Commission determines that the  
21 ERO—

22               “(A) has the ability to develop and enforce, sub-  
23 ject to subsection (e)(2), reliability standards that  
24 provide for an adequate level of reliability of the  
25 bulk-power system; and

1 “(B) has established rules that—

2 “(i) ensure the independence of the ERO  
3 from the users and owners and operators of the  
4 bulk-power system, while ensuring fair stake-  
5 holder representation in the selection of direc-  
6 tors of the ERO and balanced decisionmaking  
7 in any ERO committee or subordinate organiza-  
8 tional structure;

9 “(ii) allocate equitably reasonable dues,  
10 fees, and other charges among end users for all  
11 activities under this section;

12 “(iii) provide fair and impartial procedures  
13 for enforcement of reliability standards through  
14 the imposition of penalties in accordance with  
15 subsection (e) (including limitations on activi-  
16 ties, functions, or operations, or other appro-  
17 priate sanctions);

18 “(iv) provide for reasonable notice and op-  
19 portunity for public comment, due process,  
20 openness, and balance of interests in developing  
21 reliability standards and otherwise exercising  
22 the duties of the ERO; and

23 “(v) provide for taking, after certification,  
24 appropriate steps to gain recognition in Canada  
25 and Mexico.

1       “(d) RELIABILITY STANDARDS.—(1) The Electric  
2 Reliability Organization shall file each reliability standard  
3 or modification to a reliability standard that the Electric  
4 Reliability Organization proposes to be made effective  
5 under this section with the Commission.

6       “(2)(A) The Commission may approve, by rule or  
7 order, a proposed reliability standard or modification to  
8 a reliability standard if the Commission determines that  
9 the standard is just, reasonable, not unduly discriminatory  
10 or preferential, and in the public interest.

11       “(B) The Commission—

12               “(i) shall give due weight to the technical exper-  
13 tise of the Electric Reliability Organization with re-  
14 spect to the content of a proposed standard or modi-  
15 fication to a reliability standard and to the technical  
16 expertise of a regional entity organized on an inter-  
17 connection-wide basis with respect to a reliability  
18 standard to be applicable within that interconnec-  
19 tion; but

20               “(ii) shall not defer with respect to the effect of  
21 a standard on competition.

22       “(C) A proposed standard or modification shall take  
23 effect upon approval by the Commission.

24       “(3) The Electric Reliability Organization shall  
25 rebuttably presume that a proposal from a regional entity

1 organized on an interconnection-wide basis for a reliability  
2 standard or modification to a reliability standard to be ap-  
3 plicable on an interconnection-wide basis is just, reason-  
4 able, and not unduly discriminatory or preferential, and  
5 in the public interest.

6 “(4) The Commission shall remand to the Electric  
7 Reliability Organization for further consideration a pro-  
8 posed reliability standard or a modification to a reliability  
9 standard that the Commission disapproves in whole or in  
10 part.

11 “(5) The Commission, upon a motion of the Commis-  
12 sion or upon complaint, may order the Electric Reliability  
13 Organization to submit to the Commission a proposed reli-  
14 ability standard or a modification to a reliability standard  
15 that addresses a specific matter if the Commission con-  
16 siders such a new or modified reliability standard appro-  
17 priate to carry out this section.

18 “(6)(A) The final rule adopted under subsection  
19 (b)(2) shall include fair processes for the identification  
20 and timely resolution of any conflict between a reliability  
21 standard and any function, rule, order, tariff, rate sched-  
22 ule, or agreement accepted, approved, or ordered by the  
23 Commission applicable to a transmission organization.

24 “(B) The transmission organization shall continue to  
25 comply with such function, rule, order, tariff, rate sched-

1 rule, or agreement as is accepted, approved, or ordered by  
2 the Commission until—

3 “(i) the Commission finds a conflict exists be-  
4 tween a reliability standard and any such provision;

5 “(ii) the Commission orders a change to the  
6 provision pursuant to section 206; and

7 “(iii) the ordered change becomes effective  
8 under this part.

9 “(C) If the Commission determines that a reliability  
10 standard needs to be changed as a result of such a con-  
11 flict, the Commission shall order the ERO to develop and  
12 file with the Commission a modified reliability standard  
13 under paragraph (4) or (5).

14 “(e) ENFORCEMENT.—(1) Subject to paragraph (2),  
15 the ERO may impose a penalty on a user or owner or  
16 operator of the bulk-power system for a violation of a reli-  
17 ability standard approved by the Commission under sub-  
18 section (d) if the ERO, after notice and an opportunity  
19 for a hearing—

20 “(A) finds that the user or owner or operator  
21 has violated a reliability standard approved by the  
22 Commission under subsection (d); and

23 “(B) files notice and the record of the pro-  
24 ceeding with the Commission.

1           “(2)(A) A penalty imposed under paragraph (1) may  
2 take effect not earlier than the 31st day after the date  
3 on which the ERO files with the Commission notice of the  
4 penalty and the record of proceedings.

5           “(B) The penalty shall be subject to review by the  
6 Commission upon—

7                 “(i) a motion by the Commission; or

8                 “(ii) application by the user, owner, or operator  
9 that is the subject of the penalty filed not later than  
10 30 days after the date on which the notice is filed  
11 with the Commission.

12           “(C) Application to the Commission for review, or the  
13 initiation of review by the Commission upon a motion of  
14 the Commission, shall not operate as a stay of the penalty  
15 unless the Commission orders otherwise upon a motion of  
16 the Commission or upon application by the user, owner,  
17 or operator that is the subject of the penalty.

18           “(D) In any proceeding to review a penalty imposed  
19 under paragraph (1), the Commission, after notice and op-  
20 portunity for hearing (which hearing may consist solely  
21 of the record before the ERO and opportunity for the  
22 presentation of supporting reasons to affirm, modify, or  
23 set aside the penalty), shall by order affirm, set aside, re-  
24 instate, or modify the penalty, and, if appropriate, remand  
25 to the ERO for further proceedings.

1       “(E) The Commission shall implement expedited pro-  
2 cedures for hearings described in subparagraph (D).

3       “(3) Upon a motion of the Commission or upon com-  
4 plaint, the Commission may order compliance with a reli-  
5 ability standard and may impose a penalty against a user  
6 or owner or operator of the bulk-power system if the Com-  
7 mission finds, after notice and opportunity for a hearing,  
8 that the user or owner or operator of the bulk-power sys-  
9 tem has engaged or is about to engage in any act or prac-  
10 tice that constitutes or will constitute a violation of a reli-  
11 ability standard.

12       “(4)(A) The Commission shall issue regulations au-  
13 thorizing the ERO to enter into an agreement to delegate  
14 authority to a regional entity for the purpose of proposing  
15 reliability standards to the ERO and enforcing reliability  
16 standards under paragraph (1) if—

17               “(i) the regional entity is governed by an inde-  
18 pendent board, a balanced stakeholder board, or a  
19 combination of an independent and balanced stake-  
20 holder board;

21               “(ii) the regional entity otherwise meets the re-  
22 quirements of paragraphs (1) and (2) of subsection  
23 (c); and

24               “(iii) the agreement promotes effective and effi-  
25 cient administration of bulk-power system reliability.

1       “(B) The Commission may modify a delegation under  
2 this paragraph.

3       “(C) The ERO and the Commission shall rebuttably  
4 presume that a proposal for delegation to a regional entity  
5 organized on an interconnection-wide basis promotes effective  
6 and efficient administration of bulk-power system reliability  
7 and should be approved.

8       “(D) The regulations issued under this paragraph  
9 may provide that the Commission may assign the authority  
10 of the ERO to enforce reliability standards under paragraph  
11 (1) directly to a regional entity in accordance with  
12 this paragraph.

13       “(5) The Commission may take such action as the  
14 Commission determines to be appropriate against the  
15 ERO or a regional entity to ensure compliance with a reliability  
16 standard or any Commission order affecting the  
17 ERO or a regional entity.

18       “(6) Any penalty imposed under this section shall  
19 bear a reasonable relation to the seriousness of the violation  
20 and shall take into consideration the efforts of the  
21 user, owner, or operator to remedy the violation in a timely  
22 manner.

23       “(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION  
24 RULES.—(1) The Electric Reliability Organization  
25 shall file with the Commission for approval any proposed

1 rule or proposed rule change, accompanied by an expla-  
2 nation of the basis and purpose of the rule and proposed  
3 rule change.

4 “(2) The Commission, upon a motion of the Commis-  
5 sion or upon complaint, may propose a change to the rules  
6 of the ERO.

7 “(3) A proposed rule or proposed rule change shall  
8 take effect upon a finding by the Commission, after notice  
9 and opportunity for comment, that the change is just, rea-  
10 sonable, not unduly discriminatory or preferential, is in  
11 the public interest, and meets the requirements of sub-  
12 section (c).

13 “(g) RELIABILITY REPORTS.—The ERO shall con-  
14 duct periodic assessments of the reliability and adequacy  
15 of the bulk-power system in North America.

16 “(h) COORDINATION WITH CANADA AND MEXICO.—  
17 The President is urged to negotiate international agree-  
18 ments with the governments of Canada and Mexico to pro-  
19 vide for effective compliance with reliability standards and  
20 the effectiveness of the ERO in the United States and  
21 Canada or Mexico.

22 “(i) SAVINGS PROVISIONS.—(1) The ERO may de-  
23 velop and enforce compliance with reliability standards for  
24 only the bulk-power system.

1       “(2) Nothing in this section authorizes the ERO or  
2 the Commission to order the construction of additional  
3 generation or transmission capacity or to set and enforce  
4 compliance with standards for adequacy or safety of elec-  
5 tric facilities or services.

6       “(3) Nothing in this section preempts any authority  
7 of any State to take action to ensure the safety, adequacy,  
8 and reliability of electric service within that State, as long  
9 as such action is not inconsistent with any reliability  
10 standard.

11       “(4) Not later than 90 days after the date of applica-  
12 tion of the Electric Reliability Organization or other af-  
13 fected party, and after notice and opportunity for com-  
14 ment, the Commission shall issue a final order deter-  
15 mining whether a State action is inconsistent with a reli-  
16 ability standard, taking into consideration any rec-  
17 ommendation of the ERO.

18       “(5) The Commission, after consultation with the  
19 ERO and the State taking action, may stay the effective-  
20 ness of any State action, pending the issuance by the Com-  
21 mission of a final order.

22       “(j) REGIONAL ADVISORY BODIES.—(1) The Com-  
23 mission shall establish a regional advisory body on the pe-  
24 tition of at least  $\frac{2}{3}$  of the States within a region that have

1 more than  $\frac{1}{2}$  of the electric load of the States served with-  
2 in the region.

3 “(2) A regional advisory body—

4 “(A) shall be composed of 1 member from each  
5 participating State in the region, appointed by the  
6 Governor of the State; and

7 “(B) may include representatives of agencies,  
8 States, and provinces outside the United States.

9 “(3) A regional advisory body may provide advice to  
10 the Electric Reliability Organization, a regional entity, or  
11 the Commission regarding—

12 “(A) the governance of an existing or proposed  
13 regional entity within the same region;

14 “(B) whether a standard proposed to apply  
15 within the region is just, reasonable, not unduly dis-  
16 criminatory or preferential, and in the public inter-  
17 est;

18 “(C) whether fees proposed to be assessed with-  
19 in the region are just, reasonable, not unduly dis-  
20 criminatory or preferential, and in the public inter-  
21 est; and

22 “(D) any other responsibilities requested by the  
23 Commission.

1       “(4) The Commission may give deference to the ad-  
2 vice of a regional advisory body if that body is organized  
3 on an interconnection-wide basis.

4       “(k) ALASKA AND HAWAII.—This section does not  
5 apply to Alaska or Hawaii.”

6       (b) STATUS OF ERO.—The Electric Reliability Orga-  
7 nization certified by the Federal Energy Regulatory Com-  
8 mission under section 215(c) of the Federal Power Act  
9 (as added by subsection (a)) and any regional entity dele-  
10 gated enforcement authority pursuant to section 215(e)(4)  
11 of that Act (as so added) are not departments, agencies,  
12 or instrumentalities of the United States Government.

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