

to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table.

SA 2943. Mr. CORNYN (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4, *supra*; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2937. Mr. GRASSLEY (for Ms. SNOWE (for herself, Mr. DODD, Mr. HATCH, Mr. ALEXANDER, Mr. CARPER, Mr. BINGAMAN, Mr. ROCKEFELLER, Ms. COLLINS, Ms. LANDRIEU, Mrs. MURRAY, Mr. JEFFORDS, Mrs. BOXER, Mr. CHAFEE, Mrs. LINCOLN, Mrs. CLINTON, Ms. MIKULSKI, Mr. COLEMAN, Mr. SCHUMER, and Mr. BAUCUS)) proposed an amendment to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; as follows:

Beginning on page 255, strike line 18 and all that follows through page 257, line 2, and insert the following:

SEC. 116. FUNDING FOR CHILD CARE.

(a) INCREASE IN MANDATORY FUNDING.—Section 418(a)(3) (42 U.S.C. 618(a)(3)), as amended by section 4 of the Welfare Reform Extension Act of 2003 (Public Law 108-040, 117 Stat. 837), is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting “; and”; and

(3) by adding at the end the following:

“(G) \$2,917,000,000 for each of fiscal years 2005 through 2009.”.

(b) RESERVATION OF CHILD CARE FUNDS.—

(1) IN GENERAL.—Section 418(a)(4) (42 U.S.C. 618(a)(4)) is amended to read as follows:

“(4) AMOUNTS RESERVED.—

“(A) INDIAN TRIBES.—

“(i) IN GENERAL.—The Secretary shall reserve 2 percent of the aggregate amount appropriated to carry out this section for a fiscal year for payments to Indian tribes and tribal organizations for such fiscal year for the purpose of providing child care assistance.

“(ii) APPLICATION OF CCDBG REQUIREMENTS.—Payments made under this subparagraph shall be subject to the requirements that apply to payments made to Indian tribes and tribal organizations under the Child Care and Development Block Grant Act of 1990.

“(B) TERRITORIES.—

“(i) PUERTO RICO.—The Secretary shall reserve 1.5 percent of the amount appropriated under paragraph (5)(A)(i) for a fiscal year for payments to the Commonwealth of Puerto Rico for such fiscal year for the purpose of providing child care assistance.

“(ii) OTHER TERRITORIES.—The Secretary shall reserve 0.5 percent of the amount appropriated under paragraph (5)(A)(i) for a fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands in amounts which bear the same ratio to such amount as the amounts allotted to such territories under section 6580 of the Child Care and Development Block Grant Act of 1990 for the fiscal year bear to the total amount reserved under such section for that fiscal year.

“(iii) APPLICATION OF CCDBG REQUIREMENTS.—Payments made under this subpara-

graph shall be subject to the requirements that apply to payments made to territories under the Child Care and Development Block Grant Act of 1990.”.

(2) CONFORMING AMENDMENT.—Section 1108(a)(2) (42 U.S.C. 1308(a)(2)), as amended by section 108(b)(3), is amended by striking “or 413(f)” and inserting “413(f), or 418(a)(4)(B)”.

(c) SUPPLEMENTAL GRANTS.—Section 418(a) (42 U.S.C. 618(a)) is amended—

(1) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4), the following:

“(5) SUPPLEMENTAL GRANTS.—

“(A) APPROPRIATION.—

“(i) IN GENERAL.—For supplemental grants under this section, there are appropriated—

“(I) \$700,000,000 for fiscal year 2005;

“(II) \$1,000,000,000 for fiscal year 2006;

“(III) \$1,200,000,000 for fiscal year 2007;

“(IV) \$1,400,000,000 for fiscal year 2008; and

“(V) \$1,700,000,000 for fiscal year 2009.

“(ii) AVAILABILITY.—Amounts appropriated under clause (i) for a fiscal year shall be in addition to amounts appropriated under paragraph (3) for such fiscal year and shall remain available without fiscal year limitation.

“(B) SUPPLEMENTAL GRANT.—In addition to the grants paid to a State under paragraphs (1) and (2) for each of fiscal years 2005 through 2009, the Secretary, after reserving the amounts described in subparagraphs (A) and (B) of paragraph (4) and subject to the requirements described in paragraph (6), shall pay each State an amount which bears the same ratio to the amount specified in subparagraph (A)(i) for the fiscal year (after such reservations), as the amount allotted to the State under paragraph (2)(B) for fiscal year 2003 bears to the amount allotted to all States under that paragraph for such fiscal year.

“(6) REQUIREMENTS.—

“(A) MAINTENANCE OF EFFORT.—A State may not be paid a supplemental grant under paragraph (5) for a fiscal year unless the State ensures that the level of State expenditures for child care for such fiscal year is not less than the sum of—

“(i) the level of State expenditures for child care that were matched under a grant made to the State under paragraph (2) for fiscal year 2003; and

“(ii) the level of State expenditures for child care that the State reported as maintenance of effort expenditures for purposes of paragraph (2) for fiscal year 2003.

“(B) MATCHING REQUIREMENT FOR FISCAL YEARS 2008 AND 2009.—With respect to the amount of the supplemental grant made to a State under paragraph (5) for each of fiscal years fiscal year 2008 and 2009 that is in excess of the amount of the grant made to the State under paragraph (5) for fiscal year 2007, subparagraph (C) of paragraph (2) shall apply to such excess amount in the same manner as such subparagraph applies to grants made under subparagraph (A) of paragraph (2) for each of fiscal years 2008 and 2009, respectively.

“(C) REDISTRIBUTION.—In the case of a State that fails to satisfy the requirement of subparagraph (A) for a fiscal year, the supplemental grant determined under paragraph (5) for the State for that fiscal year shall be redistributed in accordance with paragraph (2)(D).”.

(d) EXTENSION OF MERCHANDISE PROCESSING CUSTOMS USER FEES.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)), as amended by section 201 of the Military Family Tax Relief Act of 2003 (Public Law 108-121; 117 Stat. 1343), is amended—

(1) by striking “Fees” and inserting “(A) Except as provided in subparagraph (B), fees”; and

(2) by adding at the end the following:

“(B) Fees may not be charged under paragraphs (9) and (10) of subsection (a) after September 30, 2009.”.

SA 2938. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE VIII—ENERGY TAX INCENTIVES

Subtitle A—Conservation and Energy Efficiency Provisions

SEC. 801. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

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

“SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.”.

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

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—

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

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

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

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

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

“(I) a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a qualifying new home constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment; or

“(II) in the case of a qualifying new home which is a manufactured home, a home which meets the applicable standards required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

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

“(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—The amount of the credit otherwise allowable for the taxable year with respect to a qualifying new home under clause (i) or (ii) of subparagraph (A) shall be reduced by the sum of the credits allowed under subsection (a) to any taxpayer with respect to the home for all preceding taxable years.

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

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

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

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

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

“(1) ELIGIBLE CONTRACTOR.—The term ‘eligible contractor’ means—

“(A) the person who constructed the qualifying new home, or

“(B) in the case of a qualifying new home which is a manufactured home, the manufacturer of such home. If more than 1 person is described in subparagraph (A) or (B) with respect to any qualifying new home, such term means the person designated as such by the owner of such home.

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

“(3) QUALIFYING NEW HOME.—

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

“(i) located in the United States,

“(ii) the construction of which is substantially completed after September 30, 2004, and

“(iii) the first use of which after construction is as a principal residence (within the meaning of section 121).

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

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

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

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

“(B) exterior windows (including skylights), and

“(C) exterior doors.

“(d) CERTIFICATION.—

“(1) METHOD OF CERTIFICATION.—

“(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method, a performance-based method, or a guarantee-based method, or, in the case of a qualifying new home which is a manufactured home, by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

“(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Ad-

ministrator of the Environmental Protection Agency, develop prescriptive component-based packages which are equivalent in energy performance to properties which qualify under subparagraph (C).

“(C) PERFORMANCE-BASED METHOD.—

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

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

“(II) constructed in accordance with the latest standards of chapter 4 of the International Energy Conservation Code approved by the Department of Energy before the construction of such qualifying new home and any applicable Federal minimum efficiency standards for equipment.

“(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

“(D) GUARANTEE-BASED METHOD.—

“(i) IN GENERAL.—A guarantee-based method is a method which guarantees in writing to the homeowner energy savings of either 30 percent or 50 percent over the 2000 International Energy Conservation Code for heating and cooling costs. The guarantee shall be provided for a minimum of 2 years and shall fully reimburse the homeowner any heating and cooling costs in excess of the guaranteed amount.

“(ii) COMPUTER SOFTWARE.—Computer software shall be selected by the provider to support the guarantee-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

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

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

“(B) in the case of a performance-based method or a guarantee-based method, an individual recognized by an organization designated by the Secretary for such purposes, or

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

“(3) FORM.—

“(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and

“(i) in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home, and

“(ii) in the case of a qualifying new home which is a manufactured home, accompanied by such documentation as required by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

“(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and solar heat gain coeffi-

cient for windows, skylights, and doors, labeled annual fuel utilization efficiency (AFUE) ratings for furnaces and boilers, labeled heating seasonal performance factor (HSPF) ratings for electric heat pumps, and labeled seasonal energy efficiency ratio (SEER) ratings for air conditioners.

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

“(4) REGULATIONS.—

“(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based and guarantee-based certification methods, the Secretary shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

“(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

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

“(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

“(e) APPLICATION.—Subsection (a) shall apply to qualifying new homes the construction of which is substantially completed after September 30, 2004, and purchased during the period beginning on such date and ending on—

“(1) in the case of any 30-percent home, December 31, 2005, and

“(2) in the case of any 50-percent home, December 31, 2007.”

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

“(22) the new energy efficient home credit determined under section 45K(a).”

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

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

(d) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(16) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45K may be carried back to any taxable year ending before October 1, 2004.”

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking “and” at the end of paragraph (9),

by striking the period at the end of paragraph (10) and inserting “, and”, and by adding after paragraph (10) the following new paragraph:

“(11) the new energy efficient home credit determined under section 45K(a).”.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

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

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to homes the construction of which is substantially completed after September 30, 2004.

SEC. 802. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

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

“SEC. 45L. ENERGY EFFICIENT APPLIANCE CREDIT.”

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

“(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

“(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

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

“(A) \$50, in the case of—

“(i) a clothes washer which is manufactured with at least a 1.42 MEF, or

“(ii) a refrigerator which consumes at least 10 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001,

“(B) \$100, in the case of—

“(i) a clothes washer which is manufactured with at least a 1.50 MEF, or

“(ii) a refrigerator which consumes at least 15 percent (20 percent in the case of a refrigerator manufactured after 2006) less kilowatt hours per year than such energy conservation standards, and

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

“(2) ELIGIBLE PRODUCTION.—

“(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

“(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

“(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2000, 2001, and 2002.

“(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

“(i) clothes washers described in paragraph (1)(A)(i),

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

“(iii) refrigerators described in paragraph (1)(A)(ii),

“(iv) refrigerators described in paragraph (1)(B)(ii), and

“(v) refrigerators described in paragraph (1)(C).

“(c) LIMITATION ON MAXIMUM CREDIT.—

“(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed \$60,000,000, of which not more than \$30,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsection (b)(1)(A).

“(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

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

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

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

“(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

“(B) a refrigerator described in subparagraph (A)(ii), (B)(ii), or (C) of subsection (b)(1).

“(2) CLOTHES WASHER.—The term ‘clothes washer’ means a residential clothes washer, including a residential style coin operated washer.

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

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

“(e) SPECIAL RULES.—

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

“(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

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

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

“(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

“(2) with respect to all other qualified energy efficient appliances produced after December 31, 2007.”.

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

“(23) the energy efficient appliance credit determined under section 45L(a).”.

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(17) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45L may be carried to a taxable year ending before October 1, 2004.”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45L. Energy efficient appliance credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after September 30, 2004, in taxable years ending after such date.

SEC. 803. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits) is amended by inserting after section 25B the following new section:

“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.”

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

“(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

“(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

“(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

“(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

“(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

“(A) \$2,000 for property described in paragraph (1), (2), or (5) of subsection (d),

“(B) \$500 for each 0.5 kilowatt of capacity of property described in subsection (d)(4), and

“(C) for property described in subsection (d)(6)—

“(i) \$150 for each electric heat pump water heater,

“(ii) \$125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

“(iii) \$150 for each advanced natural gas, oil, or propane water heater,

“(iv) \$50 for each natural gas, oil, or propane water heater,

“(v) \$50 for an advanced main air circulating fan,

“(vi) \$150 for each advanced combination space and water heating system,

“(vii) \$50 for each combination space and water heating system, and

“(viii) \$250 for each geothermal heat pump.

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

“(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

“(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

“(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

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

“(ii) in the case of the energy efficiency ratio (EER) for property described in subsection (d)(6)(B)(viii)—

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

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

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

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

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

“(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

“(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

“(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

“(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

“(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term ‘qualified wind energy property expenditure’ means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

“(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

“(A) IN GENERAL.—The term ‘qualified Tier 2 energy efficient building property expenditure’ means an expenditure for any Tier 2 energy efficient building property.

“(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term ‘Tier 2 energy efficient building property’ means—

“(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

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

“(iii) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

“(iv) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

“(v) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet

motor or another type of motor which achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

“(vi) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

“(vii) a combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure, and

“(viii) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

“(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

“(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

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

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

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

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

“(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(3) CONDOMINIUMS.—

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

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

“(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

“(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

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

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

“(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

“(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

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

“(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.”

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

“(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.”

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)” and inserting “subsection (b)(3)”.

(B) Section 23(b)(4)(B) is amended by inserting “and section 25C” after “this section”.

(C) Section 24(b)(3)(B) is amended by striking “23 and 25B” and inserting “23, 25B, and 25C”.

(D) Section 25(e)(1)(C) is amended by inserting “25C,” after “25B.”

(E) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25C”.

(F) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25C”.

(G) Section 904(h) is amended by striking “and 25B” and inserting “25B, and 25C”.

(H) Section 1400C(d) is amended by striking “and 25B” and inserting “25B, and 25C”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (30), by striking the period at the

end of paragraph (31) and inserting “, and”, and by adding at the end the following new paragraph:

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

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

“Sec. 25C. Residential energy efficient property.”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after September 30, 2004, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after September 30, 2004.

SEC. 804. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking “or” at the end of clause (i), by adding “or” at the end of clause (ii), and by inserting after clause (ii) the following new clause:

“(iii) qualified fuel cell property or qualified microturbine property.”.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48(a) (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

“(A) QUALIFIED FUEL CELL PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified fuel cell property’ means a fuel cell power plant which—

“(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

“(II) has an electricity-only generation efficiency greater than 30 percent.

“(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to \$500 for each 0.5 kilowatt of capacity of such property.

“(iii) FUEL CELL POWER PLANT.—The term ‘fuel cell power plant’ means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

“(iv) TERMINATION.—The term ‘qualified fuel cell property’ shall not include any property placed in service after December 31, 2007.

“(B) QUALIFIED MICROTURBINE PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified microturbine property’ means a stationary microturbine power plant which—

“(I) has a capacity of less than 2,000 kilowatts, and

“(II) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

“(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to \$200 for each kilowatt of capacity of such property.

“(iii) STATIONARY MICROTURBINE POWER PLANT.—The term ‘stationary microturbine power plant’ means an integrated system

comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

“(iv) TERMINATION.—The term ‘qualified microturbine property’ shall not include any property placed in service after December 31, 2006.”.

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

“(A) IN GENERAL.—The energy percentage is—

“(i) in the case of qualified fuel cell property, 30 percent, and

“(ii) in the case of any other energy property, 10 percent.”.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking “section 48(a)(4)(C)” and inserting “section 48(a)(5)(C)”.

(B) Section 48(a)(1) is amended by inserting “except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),” before “the energy”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 805. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179A the following new section:

“SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

“(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year in which a building is placed in service by a taxpayer, an amount equal to the energy efficient commercial building property expenditures made by such taxpayer with respect to the construction or reconstruction of such building for the taxable year or any preceding taxable year.

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

“(1) \$2.25, and

“(2) the square footage of the building with respect to which the expenditures are made.

“(c) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘energy efficient commercial building property expenditures’ means amounts paid or incurred for energy efficient property installed on or in connection with the construction or reconstruction of a building—

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

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

“(C) which is the type of structure to which the Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America is applicable.

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

“(2) ENERGY EFFICIENT PROPERTY.—For purposes of paragraph (1)—

“(A) IN GENERAL.—The term ‘energy efficient property’ means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a building which meets the minimum requirements of Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, using methods of calculation described in subparagraph (B) and certified by qualified individuals as provided under paragraph (5).

“(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power costs.

“(C) COMPUTER SOFTWARE.—

“(i) IN GENERAL.—Any calculation described in subparagraph (B) shall be prepared by qualified computer software.

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

“(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power costs as required by the Secretary,

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

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

“(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property expenditures made by a public entity with respect to the construction or reconstruction of a public building, the Secretary shall promulgate regulations under which the value of the deduction with respect to such expenditures which would be allowable to the public entity under this section (determined without regard to the tax-exempt status of such entity) may be allocated to the person primarily responsible for designing the energy efficient property. Such person shall be treated as the taxpayer for purposes of this section.

“(4) NOTICE TO OWNER.—Any qualified individual providing a certification under paragraph (5) shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings by qualified individuals described in subparagraph (B). Such procedures shall be—

“(i) comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Home Energy Rating Standards, and

“(ii) fuel neutral such that the same energy efficiency measures allow a building to be eligible for the credit under this section regardless of whether such building uses a gas or oil furnace or boiler or an electric heat pump.

“(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be

only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a home energy ratings organization, a local building regulatory authority, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this paragraph.

“(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with non-profit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

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

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

“(f) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with a building the construction of which is not completed on or before December 31, 2009.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting “, and”, and by adding at the end the following new paragraph:

“(33) to the extent provided in section 179B(d).”.

(2) Section 1245(a) is amended by inserting “179B,” after “179A,” both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence “or by section 179B”.

(4) Section 263(a)(1) is amended by striking “or” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, or”, and by inserting after subparagraph (H) the following new subparagraph:

“(I) expenditures for which a deduction is allowed under section 179B.”.

(5) Section 312(k)(3)(B) is amended by striking “or 179A” each place it appears in the heading and text and inserting “, 179A, or 179B”.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2004.

SEC. 806. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) any qualified energy management device.”.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

“(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—

“(A) IN GENERAL.—The term ‘qualified energy management device’ means any energy management device which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

“(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term ‘energy management device’ means any meter or metering device which is used by the taxpayer—

“(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

“(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2004, in taxable years ending after such date.

SEC. 807. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property), as amended by this Act, is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following new clause:

“(v) any qualified water submetering device.”.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

“(16) QUALIFIED WATER SUBMETERING DEVICE.—

“(A) IN GENERAL.—The term ‘qualified water submetering device’ means any water submetering device which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier with respect to the unit for which the device is placed in service.

“(B) WATER SUBMETERING DEVICE.—For purposes of this paragraph, the term ‘water submetering device’ means any submetering device which is used by the taxpayer—

“(i) to measure and record water usage data, and

“(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.”.

“(C) ELIGIBLE RESUPPLIER.—For purposes of subparagraph (A), the term ‘eligible resupplier’ means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2004, in taxable years ending after such date.

SEC. 808. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking “or” at the end of clause (ii), by adding “or” at the end of clause (iii), and by inserting after clause (iii) the following new clause:

“(iv) combined heat and power system property.”.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48(a) (relating to energy credit), as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

“(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term ‘combined heat and power system property’ means property comprising a system—

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

“(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

“(iii) which produces—

“(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

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

“(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

“(v) which is placed in service before January 1, 2007.

“(B) SPECIAL RULES.—

“(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

“(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

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

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

“(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term ‘combined heat and power system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(iv) PUBLIC UTILITY PROPERTY.—

“(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under this subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

“(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term ‘combined heat and power system property’ includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (i), (iii), and (iv) thereof.

“(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed a credit under this section for a combined heat and power system property which has a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.”.

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(18) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending before October 1, 2004.”.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after September 30, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 809. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

“(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed \$300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which is certified to meet or exceed the latest prescriptive criteria for such component in the International Energy Conservation Code approved by the Department of Energy before the installation of such component, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

“(1) such component or combination of measures is installed in or on a dwelling which—

“(A) is located in the United States,

“(B) has not been treated as a qualifying new home for purposes of any credit allowed under section 45K, and

“(C) is owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121),

“(2) the original use of such component or combination of measures commences with the taxpayer, and

“(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

“(e) CERTIFICATION.—

“(1) METHODS OF CERTIFICATION.—

“(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

“(B) PERFORMANCE-BASED METHOD.—

“(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

“(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

“(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

“(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy.

“(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

“(A) in the case of the method described in paragraph (1)(A), a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

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

“(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

“(4) REGULATIONS.—

“(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

“(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

“(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

“(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

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

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

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

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

“(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

“(3) CONDOMINIUMS.—

“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual’s proportionate share of the cost of qualified energy efficiency improvements made by such association.

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

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

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

“(B) exterior windows (including skylights), and

“(C) exterior doors.

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

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

“(h) TERMINATION.—Subsection (a) shall not apply to qualified energy efficiency improvements installed after December 31, 2006.”.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended—

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

“(1) DOLLAR AMOUNT.—The credit”, and

(B) by adding at the end the following new paragraph:

“(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)” and inserting “subsection (b)(2)”.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking “section 25C” and inserting “sections 25C and 25D”.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting “25D,” after “25C,”.

(E) Section 25B(g)(2), as amended by this Act, is amended by striking “23 and 25C” and inserting “23, 25C, and 25D”.

(F) Section 26(a)(1), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(G) Section 904(h), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(H) Section 1400C(d), as amended by this Act, is amended by striking “and 25C” and inserting “25C, and 25D”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “; and”, and by adding at the end the following new paragraph:

“(34) to the extent provided in section 25D(g), in the case of amounts with respect to which a credit has been allowed under section 25D.”.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

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

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after September 30, 2004, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after September 30, 2004.

Subtitle B—Oil and Gas Provisions

SEC. 811. OIL AND GAS FROM MARGINAL WELLS.

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

“SEC. 45M. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

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

“(1) the credit amount, and

“(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

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

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

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

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

“(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

“(A) IN GENERAL.—The \$3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

“(i) the excess (if any) of the applicable reference price over \$15 (\$1.67 for qualified natural gas production), bears to

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

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

“(B) INFLATION ADJUSTMENT.—

“(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2004, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year.

“(ii) INFLATION ADJUSTMENT FACTOR.—For purposes of clause (i)—

“(I) IN GENERAL.—The term ‘inflation adjustment factor’ means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

“(II) GDP IMPLICIT PRICE DEFLATOR.—The term ‘GDP implicit price deflator’ means, for any calendar year, the most recent revision of the implicit price deflator for the gross domestic product as of June 30 of such calendar year as computed by the Department of Commerce before October 1 of such calendar year.

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

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

“(ii) in the case of qualified natural gas production, the Secretary’s estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

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

“(1) IN GENERAL.—The terms ‘qualified crude oil production’ and ‘qualified natural gas production’ mean domestic crude oil or domestic natural gas which is produced from a qualified marginal well.

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

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

“(B) PROPORTIONATE REDUCTIONS.—

“(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

“(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be propor-

tionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

“(3) NONCOMPLIANCE WITH POLLUTION LAWS.—Production from any well during any period in which such well is not in compliance with applicable Federal pollution prevention, control, and permit requirements shall not be treated as qualified crude oil production or qualified natural gas production.

“(4) DEFINITIONS.—

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

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

“(ii) which, during the taxable year—

“(I) has average daily production of not more than 25 barrel equivalents, and

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

“(B) CRUDE OIL, ETC.—The terms ‘crude oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have the meanings given such terms by section 613A(e).

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

“(d) OTHER RULES.—

“(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than 1 owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer’s revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

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

“(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.”.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting “; plus”, and by adding at the end the following new paragraph:

“(24) the marginal oil and gas well production credit determined under section 45M(a).”.

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45M may be carried back to a taxable year ending before October 1, 2004.”.

(d) COORDINATION WITH SECTION 29.—Section 29(a) (relating to allowance of credit) is amended by striking “There” and inserting “At the election of the taxpayer, there”.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this

Act, is amended by adding at the end the following new item:

"Sec. 45M. Credit for producing oil and gas from marginal wells."

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to production in taxable years beginning after September 30, 2004.

SEC. 812. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) **IN GENERAL.**—Section 168(e)(3)(C) (defining 7-year property) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and".

(b) **NATURAL GAS GATHERING LINE.**—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) **NATURAL GAS GATHERING LINE.**—The term 'natural gas gathering line' means—

"(A) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

"(iii) an interconnection with an intrastate transmission pipeline, or

"(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer, or

"(B) any other pipe, equipment, or appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission.

(c) **ALTERNATIVE SYSTEM.**—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

"(C)(ii) 14".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after September 30, 2004, in taxable years ending after such date.

SEC. 813. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

"SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(a) **TREATMENT AS EXPENSE.**—

"(1) **IN GENERAL.**—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

"(2) **LIMITATION.**—

"(A) **IN GENERAL.**—The aggregate costs which may be taken into account under this subsection for any taxable year with respect to any facility may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year with respect to such facility.

"(B) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (A)—

"(i) **IN GENERAL.**—Except as provided in clause (ii), the applicable percentage is 75 percent.

"(ii) **REDUCED PERCENTAGE.**—In the case of any facility with average daily refinery runs or average retained production for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (but not below zero) by the product of—

"(I) such percentage (before the application of this clause), and

"(II) the ratio of such excess to 50,000 barrels.

"(b) **DEFINITIONS.**—For purposes of this section—

"(1) **QUALIFIED CAPITAL COSTS.**—The term 'qualified capital costs' means any costs which—

"(A) are otherwise chargeable to capital account, and

"(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

"(2) **SMALL BUSINESS REFINER.**—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil—

"(A) which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year, and

"(B) the average daily refinery run or average retained production of which for all facilities of the taxpayer for the 1-year period ending on the date of the enactment of this section did not exceed 410,000 barrels.

"(c) **COORDINATION WITH OTHER PROVISIONS.**—Section 280B shall not apply to amounts which are treated as expenses under this section.

"(d) **BASIS REDUCTION.**—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(e) **CONTROLLED GROUPS.**—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer."

(b) **CONFORMING AMENDMENTS.**—

(1) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C."

(2) Section 263A(c)(3) is amended by inserting "179C," after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179B" each place it appears in the heading and text and inserting "179B, or 179C".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 179C(d)."

(5) Section 1245(a), as amended by this Act, is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations."

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 814. ENVIRONMENTAL TAX CREDIT.

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

"SEC. 45N. ENVIRONMENTAL TAX CREDIT.

"(a) **IN GENERAL.**—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of low-sulfur diesel fuel produced at a facility by such small business refiner during such taxable year.

"(b) **MAXIMUM CREDIT.**—

"(1) **IN GENERAL.**—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) with respect to such facility for any preceding year.

"(2) **APPLICABLE PERCENTAGE.**—For purposes of paragraph (1)—

"(A) **IN GENERAL.**—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

"(B) **REDUCED PERCENTAGE.**—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179C(a)(2)(B)(ii).

"(c) **DEFINITIONS.**—For purposes of this section—

"(1) **IN GENERAL.**—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179C.

"(2) **LOW-SULFUR DIESEL FUEL.**—The term 'low-sulfur diesel fuel' means diesel fuel containing not more than 15 parts per million of sulfur.

"(3) **APPLICABLE PERIOD.**—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

"(4) **APPLICABLE EPA REGULATIONS.**—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

"(d) **CERTIFICATION.**—

"(1) **REQUIRED.**—Not later than the date which is 30 months after the first day of the first taxable year in which a credit is allowed under this section with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

"(2) **CONTENTS OF APPLICATION.**—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) **REVIEW PERIOD.**—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the

Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

“(4) **STATUTE OF LIMITATIONS.**—With respect to the credit allowed under this section—

“(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the period described in paragraph (3) ends with respect to the taxpayer, and

“(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(e) **CONTROLLED GROUPS.**—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

“(f) **COOPERATIVE ORGANIZATIONS.**—

“(1) **APPORTIONMENT OF CREDIT.**—

“(A) **IN GENERAL.**—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year.

“(B) **FORM AND EFFECT OF ELECTION.**—An election under subparagraph (A) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

“(2) **TREATMENT OF ORGANIZATIONS AND PATRONS.**—

“(A) **ORGANIZATIONS.**—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

“(B) **PATRONS.**—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(3) **SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.**—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(A) such reduction, over

“(B) the amount not apportioned to such patrons under paragraph (1) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”.

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

“(25) in the case of a small business refiner, the environmental tax credit determined under section 45N(a).”.

(c) **DENIAL OF DOUBLE BENEFIT.**—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding at the end the following new subsection:

“(e) **ENVIRONMENTAL TAX CREDIT.**—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).”.

(d) **CLERICAL AMENDMENT.**—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45N. Environmental tax credit.”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2002, in taxable years ending after such date.

SEC. 815. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) **IN GENERAL.**—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

“(4) **CERTAIN REFINERS EXCLUDED.**—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending after September 30, 2004.

SEC. 816. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking “2005” and inserting “2007”.

SEC. 817. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) **IN GENERAL.**—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.**—

“(1) **IN GENERAL.**—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

“(2) **HALF-YEAR CONVENTION.**—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

“(3) **EXCLUSIVE METHOD.**—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

“(4) **TREATMENT UPON ABANDONMENT.**—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

“(5) **DELAY RENTAL PAYMENTS.**—For purposes of this subsection, the term ‘delay rental payment’ means an amount paid for

the privilege of deferring development of an oil or gas well under an oil or gas lease.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after September 30, 2004.

SEC. 818. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) **IN GENERAL.**—Section 167 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) **AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.**—

“(1) **IN GENERAL.**—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

“(2) **SPECIAL RULES.**—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.”.

(b) **CONFORMING AMENDMENT.**—Section 263A(c)(3) is amended by inserting “167(h), 167(i),” after “under section”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after September 30, 2004.

SEC. 819. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) **IN GENERAL.**—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

“(h) **EXTENSION FOR OTHER FACILITIES.**—

“(1) **OIL AND GAS.**—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after September 30, 2004, and before January 1, 2007, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility before the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

“(2) **FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.**—

“(A) **IN GENERAL.**—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after September 30, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 3-year period beginning on the date such facility is placed in service.

“(B) **QUALIFIED AGRICULTURAL AND ANIMAL WASTE.**—For purposes of this paragraph, the term ‘qualified agricultural and animal waste’ means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes.

“(3) **WELLS PRODUCING VISCOUS OIL.**—

“(A) **IN GENERAL.**—In the case of a well for producing viscous oil which was placed in service after September 30, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such well before the close of the 3-year period beginning on the date such well is placed in service.

“(B) **VISCOUS OIL.**—The term ‘viscous oil’ means heavy oil, as defined in section 613A(c)(6), except that—

“(i) ‘22 degrees’ shall be substituted for ‘20 degrees’ in applying subparagraph (F) thereof, and

“(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

“(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(2)(A) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

“(4) FACILITIES PRODUCING REFINED COAL.—

“(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after September 30, 2004, and before January 1, 2007, this section shall apply with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

“(B) REFINED COAL.—For purposes of this paragraph, the term ‘refined coal’ means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

“(C) COVERED FACILITIES.—

“(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology which results in—

“(I) a qualified emission reduction, and

“(II) a qualified enhanced value.

“(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term ‘qualified emission reduction’ means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003.

“(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term ‘qualified enhanced value’ means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

“(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNITS EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology unit (as defined in section 48A(b)).

“(5) COALMINE GAS.—

“(A) IN GENERAL.—This section shall apply to coalmine gas—

“(i) captured or extracted by the taxpayer during the period beginning after September 30, 2004, and ending before January 1, 2007, and

“(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such period.

“(B) COALMINE GAS.—For purposes of this paragraph, the term ‘coalmine gas’ means any methane gas which is—

“(i) liberated during or as a result of coal mining operations, or

“(ii) extracted up to 10 years in advance of coal mining operations as part of a specific plan to mine a coal deposit.

“(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine gas which is captured in advance of coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine gas was removed.

“(D) NONCOMPLIANCE WITH POLLUTION LAWS.—This paragraph shall not apply to the capture or extraction of coalmine gas from coal mining operations with respect to any period in which such coal mining operations are not in compliance with applicable State

and Federal pollution prevention, control, and permit requirements.

“(6) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

“(A) FUELS TREATED AS QUALIFIED FUELS.—Any fuel described in paragraph (2), (3), (4), or (5) shall be treated as a qualified fuel for purposes of this section.

“(B) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any project shall not exceed an average barrel-of-oil equivalent of 200,000 cubic feet of natural gas per day. Days before the date the project is placed in service shall not be taken into account in determining such average.

“(C) CREDIT AMOUNT.—The dollar amount applicable under subsection (a)(1) shall be \$3 (and the inflation adjustment under subsection (b)(2) shall not apply to such amount).”.

(b) CLARIFICATION OF PLACED IN SERVICE DATE FOR CERTAIN LANDFILL GAS FACILITIES.—Section 29(d) (relating to other definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(10) CLARIFICATION OF PLACED IN SERVICE DATE FOR CERTAIN LANDFILL GAS FACILITIES.—

“(A) IN GENERAL.—In the case of a landfill placed in service on or before the date of the enactment of this paragraph—

“(i) a facility for producing qualified fuel from such landfill shall include all wells, pipes, and related components used to collect landfill gas, and

“(ii) production of landfill gas from such landfill attributable to wells, pipes, and related components placed in service after such date of enactment shall be treated as produced from a facility placed in service on the date such wells, pipes, and related components were placed in service.

“(B) LANDFILL GAS.—The term ‘landfill gas’ means gas described in subsection (c)(1)(B)(ii) and derived from the biodegradation of municipal solid waste.”.

(c) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Section 29(f)(2) (relating to application of section) is amended by inserting “(January 1, 2006, in the case of any coke, coke gas, or natural gas and by-products produced by coal gasification from lignite in a facility described in paragraph (1)(B))” after “January 1, 2003”.

(d) STUDY OF COALBED METHANE.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study regarding the effect of section 29 of the Internal Revenue Code of 1986 on the production of coalbed methane.

(2) CONTENTS OF STUDY.—The study under paragraph (1) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coalbed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coalbed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coalbed methane which has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coalbed methane produced annually and in the aggregate since such enactment.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel sold after Sep-

tember 30, 2004, in taxable years ending after such date.

(2) EXISTING FACILITIES.—The amendments made by subsection (c) shall apply to fuel sold after December 31, 2002, in taxable years ending after such date.

SA 2939. Mr. KENNEDY (for himself and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAIR MINIMUM WAGE.

(a) SHORT TITLE.—This section may be cited as the “Fair Minimum Wage Act of 2004”.

(b) INCREASE IN THE MINIMUM WAGE.—

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) \$5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2004;

“(B) \$6.45 an hour, beginning 12 months after that 60th day; and

“(C) \$7.00 an hour, beginning 24 months after that 60th day.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—

(1) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(2) TRANSITION.—Notwithstanding paragraph (1), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) \$3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(B) increased by \$0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

SA 2940. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—UNEMPLOYMENT COMPENSATION

SEC. ___. 01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat.

30), as amended by Public Law 108-1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108-26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking “December 31, 2003” and inserting “June 30, 2004”;

(2) in subsection (b)(1), by striking “December 31, 2003” and inserting “June 30, 2004”;

(3) in subsection (b)(2)—

(A) in the heading, by striking “DECEMBER 31, 2003” and inserting “JUNE 30, 2004”; and

(B) by striking “December 31, 2003” and inserting “June 30, 2004”; and

(4) in subsection (b)(3), by striking “March 31, 2004” and inserting “September 30, 2004”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 21) and shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment this Act.

SEC. 02. ADDITIONAL REVISION TO CURRENT TEUC-X TRIGGER.

(a) **IN GENERAL.**—Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 30) is amended to read as follows:

“(B) such a period would then be in effect for such State under such Act if—

“(i) section 203(d) of such Act were applied as if it had been amended by striking ‘5’ each place it appears and inserting ‘4’; and

“(ii) with respect to weeks of unemployment beginning after December 27, 2003—

“(I) paragraph (1)(A) of such section 203(d) did not apply; and

“(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply.”.

(b) **APPLICATION.**—Section 203(c)(2)(B)(ii) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 30), as added by subsection (a), shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment this Act.

SEC. 03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on June 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

SA 2941. Mr. BAUCUS (for himself and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill H.R. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—WOOL TRUST FUND

SEC. 501. EXTENSION AND MODIFICATION OF PROVISIONS RELATING TO THE WOOL RESEARCH, DEVELOPMENT, AND PROMOTION TRUST FUND.

(a) **EXTENSION OF TEMPORARY DUTY REDUCTIONS.**—

(1) **HEADING 9902.51.11.**—Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “2005” and inserting “2010”; and

(B) by striking “17.5 %” and inserting “10 %”.

(2) **HEADING 9902.51.12.**—Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended by striking “2005” and inserting “2010”.

(3) **HEADING 9902.51.13.**—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking “2005” and inserting “2010”.

(4) **HEADING 9902.51.14.**—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking “2005” and inserting “2010”.

(b) **MODIFICATION OF LIMITATION ON QUANTITY OF IMPORTS.**—

(1) **NOTE 15.**—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “and” after “2002”; and

(B) by striking “year 2003” and all that follows through the end period and inserting the following: “years 2003 and 2004, and 5,500,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of men’s and boys’ suits.”.

(2) **NOTE 16.**—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “and” after “2002”; and

(B) by striking “year 2003” and all that follows through the end period and inserting the following: “years 2003 and 2004, and 5,000,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of men’s and boys’ suits, and 2,000,000 square meter equivalents in calendar year 2005 and each calendar year thereafter for the benefit of manufacturers of worsted wool fabric suitable for use in men’s and boys’ suits.”.

(3) **CONFORMING AMENDMENTS.**—

(A) **SUNSET STAGED REDUCTION REQUIREMENT.**—Paragraph (2) of section 501(a) of the Trade and Development Act of 2000 (Public Law 106-200; 114 Stat. 299) is amended by adding before the period “for goods entered, or withdrawn from warehouse for consumption, before January 1, 2005”.

(B) **ALLOCATION OF TARIFF-RATE QUOTAS.**—Subsection (e) of section 501 of the Trade and Development Act of 2000 (Public Law 106-200; 114 Stat. 200) is amended—

(i) by inserting “for manufacturers of men’s and boys’ suits” after “implementing the limitation”; and

(ii) by inserting at the end the following new sentence: “In implementing the limitation for manufacturers of worsted wool fabric on the quantity of worsted wool fabrics under heading 9902.51.12 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 16 of subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall prescribe regulations to allocate fairly the quantity of worsted wool fabrics required under United States note 16 of such schedule to manufacturers who weave worsted wool fabric in the United States.”.

(C) **SUNSET AUTHORITY TO MODIFY LIMITATION ON QUANTITY.**—Subsection (b) of section 504 of the Trade and Development Act of 2000 (Public Law 106-200; 114 Stat. 301) is repealed effective January 1, 2005.

(c) **EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.**—

(1) **IN GENERAL.**—The United States Customs Service shall make 5 additional payments to each manufacturer that receives a payment under section 505 of the Trade and

Development Act of 2000 (Public Law 106-200; 114 Stat. 303) during calendar year 2005, and that, not later than March 1 of each year of an additional payment, provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of that payment. Each payment shall be equal to the amount of the payment received for calendar year 2005 as follows:

(A) The first payment to be made after January 1, 2006, but on or before April 15, 2006.

(B) The second, third, fourth, and fifth payments to be made after January 1, but on or before April 15, of each of the following 4 calendar years.

(2) **EXTENSION OF WOOL RESEARCH, DEVELOPMENT, AND PROMOTION TRUST FUND.**—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106-200; 114 Stat. 304) is amended by striking “2006” and inserting “2011”.

(3) **COMMERCE AUTHORITY TO PROMOTE DOMESTIC EMPLOYMENT.**—The Secretary of Commerce shall provide grants through December 31, 2010 to manufacturers of worsted wool fabric in the amount of \$2,666,000 annually to manufacturers of worsted wool fabric of the kind described in heading 9902.51.12 of the Harmonized Tariff Schedule of the United States during calendar years 1999, 2000, and 2001, and \$2,666,000 annually to manufacturers of worsted wool fabric of the kind described in heading 9902.51.11 of the Harmonized Tariff Schedule of the United States during such calendar years, allocated based on the percentage of each manufacturer’s production of the fabric described in such heading for such 3 years compared to the production of such fabric for all such applicants who qualify under this paragraph for such grant category. Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(4) **SPECIAL RULE FOR SUCCESSOR-IN-INTEREST.**—

(A) **IN GENERAL.**—Any person that becomes a successor-in-interest to a manufacturer entitled to payment, under title V of the Trade and Development Act of 2000 (Public Law 106-200; 114 Stat. 299) or this title, shall be eligible to claim payments as if the successor-in-interest was the original claimant without regard to section 3727 of title 31, United States Code. The right to claim payment as a successor-in-interest under the preceding sentence shall be effective as if the right was included in section 505 of the Trade and Development Act of 2000.

(B) **STATUS AS SUCCESSOR-IN-INTEREST.**—A person may become a successor-in-interest for purposes of subparagraph (A) pursuant to—

(i) an assignment of the claim for payment under title V of the Trade and Development Act of 2002;

(ii) an assignment of the original claimant’s right to manufacture under the same trade name as the original claimant;

(iii) a reorganization; or

(iv) some other legally recognized manner.

(5) **AUTHORIZATION.**—There is authorized to be appropriated and is hereby appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(6) **EFFECTIVE DATE.**—The grants described in paragraph (3) shall commence on or after January 1, 2005, and before December 31, 2010.

(d) **EFFECTIVE DATE.**—The amendment made by subsection (a)(1)(B) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2005.

SEC. 502. LABELING OF WOOL PRODUCTS TO FACILITATE COMPLIANCE AND PROTECT CONSUMERS.

(a) IN GENERAL.—Section 4 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b(a)) is amended by adding at the end the following new paragraph:

“(5) In the case of a wool product stamped, tagged, labeled, or otherwise identified in any one of the following subparagraphs, the average fiber diameter may be subject to a variation of 0.25 microns, and may be subject to such other standards or deviations as prescribed by regulation by the Commission:

“(A) ‘Super 80’s’ or ‘80’s’ if the average fiber diameter thereof does not average 19.5 microns or finer.

“(B) ‘Super 90’s’ or ‘90’s’ if the average fiber diameter thereof does not average 19.0 microns or finer.

“(C) ‘Super 100’s’ or ‘100’s’ if the average fiber diameter thereof does not average 18.5 microns or finer.

“(D) ‘Super 110’s’ or ‘110’s’ if the average diameter of wool fiber thereof does not average 18.0 microns or finer.

“(E) ‘Super 120’s’ or ‘120’s’ if the average diameter of wool fiber thereof does not average 17.5 microns or finer.

“(F) ‘Super 130’s’ or ‘130’s’ if the average diameter of wool fiber thereof does not average 17.0 microns or finer.

“(G) ‘Super 140’s’ or ‘140’s’ if the average diameter of wool fiber thereof does not average 16.5 microns or finer.

“(H) ‘Super 150’s’ or ‘150’s’ if the average diameter of wool fiber thereof does not average 16.0 microns or finer.

“(I) ‘Super 160’s’ or ‘160’s’ if the average diameter of wool fiber thereof does not average 15.5 microns or finer.

“(J) ‘Super 170’s’ or ‘170’s’ if the average diameter of wool fiber thereof does not average 15.0 microns or finer.

“(K) ‘Super 180’s’ or ‘180’s’ if the average diameter of wool fiber thereof does not average 14.5 microns or finer.

“(L) ‘Super 190’s’ or ‘190’s’ if the average diameter of wool fiber thereof does not average 14.0 microns or finer.

“(M) ‘Super 200’s’ or ‘200’s’ if the average diameter of wool fiber thereof does not average 13.5 microns or finer.

“(N) ‘Super 210’s’ or ‘210’s’ if the average diameter of wool fiber thereof does not average 13.0 microns or finer.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to wool products manufactured on or after January 1, 2005.

SA 2942. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 341, between lines 8 and 9, insert the following:

SEC. —. ELECTRONIC DISBURSEMENT OF CHILD SUPPORT PAYMENTS TO FAMILIES.

Section 454A(g) (42 U.S.C. 654a(g)) is amended by inserting at the end the following:

“(3) ELECTRONIC DISBURSEMENT REQUIREMENT.—

“(A) IN GENERAL.—Not later than October 1, 2008, each State disbursement unit operated under section 454B shall implement a system to electronically disburse, through direct deposit or a widely accessible card-based system, all child support collections disbursed to families under that section.

“(B) STATE OPTION TO REQUIRE CARD-BASED PAYMENT.—A State may require a payment recipient to accept payment through a card-based system if the recipient has declined to accept payment by direct deposit or does not have an account to which payment may be made by direct deposit.

“(C) OPT-OUT.—Notwithstanding subparagraph (A), a State disbursement unit may maintain a nonelectronic system for disbursing child support collections to custodial parents under section 454B after October 1, 2008, if the State notifies the Secretary in writing by October 1, 2008, that the State intends to maintain such a system.”

SEC. —. OPTIONAL EXPANSION OF STATE DISBURSEMENT UNIT TO CREATE A CENTRALIZED PAYMENT LOCATION FOR ALL CHILD SUPPORT WAGE WITHHOLDING.

Section 454B(a)(1)(B) (42 U.S.C. 654b(a)(1)(B)) is amended by inserting “or, at State option, all support orders, regardless of date issued,” after “in which the support order is initially issued in the State on or after January 1, 1994.”

SA 2943. Mr. CORNYN (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 355, between lines 3 and 4, insert the following:

SEC. 603. CLARIFICATION OF AUTHORITY OF STATES AND LOCAL AUTHORITIES TO PROVIDE HEALTH CARE TO IMMIGRANTS.

(a) IN GENERAL.—Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621) is amended—

(1) in subsection (b)—
(A) by striking paragraphs (1) and (3); and
(B) by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively;

(2) in subsection (c)—
(A) in paragraph (1)—
(i) in the matter preceding subparagraph (A), by striking “(2) and (3)” and inserting “(2), (3), and (4)”;

(ii) in subparagraph (B), by striking “health,”; and

(B) by adding at the end the following new paragraph

“(4) Such term does not include any health benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.”; and

(3) in subsection (d), by inserting “or who otherwise is not a qualified alien (as defined in subsections (b) and (c) of section 431)” after “United States”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to health care furnished before, on, or after the date of enactment of this Act.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on May 11, 2004, at 10 a.m. in room SD-366.

The purpose of this hearing is to gain an understanding of the impacts and costs of last year's fires and then look forward to the potential 2004 fire season. The hearing will give all Committee members a solid understanding of the problems faced last year and what problems the agencies and the land they oversee may face this next season, including aerial fire fighting assets and crew, and overhead availability.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364, Washington, D.C. 20510-6150.

For further information, please contact Frank Gladies (202-224-2878) or Amy Millet (202-224-7556).

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following Finance Committee fellows and interns during consideration of H.R. 4, the welfare bill: Shannon Augare, Steve Beasley, Jane Bergeson, Diana Birkett, Simon Chabel, Jodi George, Tyson Hill, Scott Landes, Pascal Niedermann, Jeremy Seidlitz, Matt Stokes, and Trace Thaxton.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, in addition, I ask unanimous consent that the following staff members of Senator GRASSLEY be granted the privilege of the floor for the duration of the debate on H.R. 4: Trenton Norman, Jarret Heil, and Jill Gotts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Abigail Kurland of Senator DODD's staff be granted floor privileges during the consideration of H.R. 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

**MEASURE READ THE FIRST
TIME—S. 2250**

Mr. MCCONNELL. Mr. President, I understand that S. 2250 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2250) to extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

Mr. MCCONNELL. Mr. President, I ask for its second reading in order to place the bill on the calendar.