

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Internal Revenue Code of 1986 to provide energy tax incentives, and for other purposes.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 6

To ensure jobs for our future with secure, affordable, and reliable energy.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY (for himself and Mr. BAUCUS)

Viz:

1 At the end add the following:

2 **TITLE XV—ENERGY POLICY TAX**
3 **INCENTIVES**

4 **SEC. 1500. SHORT TITLE; AMENDMENT OF 1986 CODE;**
5 **TABLE OF CONTENTS.**

6 (a) SHORT TITLE.—This title may be cited as the
7 “Energy Policy Tax Incentives Act of 2005”.

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

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

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

TITLE XV—ENERGY POLICY TAX INCENTIVES

Sec. 1500. Short title; amendment of 1986 Code; table of contents.

Subtitle A—Electricity Infrastructure

Sec. 1501. Extension and modification of renewable electricity production credit.

Sec. 1502. Clean renewable energy bonds.

Sec. 1503. Treatment of income of certain electric cooperatives.

Sec. 1504. Dispositions of transmission property to implement FERC restructuring policy.

Sec. 1505. Credit for production from advanced nuclear power facilities.

Sec. 1506. Credit for investment in clean coal facilities.

Sec. 1507. Clean energy coal bonds.

Subtitle B—Domestic Fossil Fuel Security

Sec. 1511. Credit for investment in clean coke/cogeneration manufacturing facilities.

Sec. 1512. Temporary expensing for equipment used in refining of liquid fuels.

Sec. 1513. Pass through to patrons of deduction for capital costs incurred by small refiner cooperatives in complying with Environmental Protection Agency sulfur regulations .

Sec. 1514. Modifications to enhanced oil recovery credit.

Sec. 1515. Natural gas distribution lines treated as 15-year property.

Subtitle C—Conservation and Energy Efficiency Provisions

Sec. 1521. Energy efficient commercial buildings deduction.

Sec. 1522. Credit for construction of new energy efficient homes.

Sec. 1523. Deduction for business energy property.

Sec. 1524. Credit for certain nonbusiness energy property.

Sec. 1525. Energy credit for combined heat and power system property.

Sec. 1526. Credit for energy efficient appliances.

Sec. 1527. Credit for residential energy efficient property.

Sec. 1528. Credit for business installation of qualified fuel cells and stationary microturbine power plants.

Sec. 1529. Business solar investment tax credit.

Subtitle D—Alternative motor Vehicles and Fuels Incentives

Sec. 1531. Alternative motor vehicle credit.

- Sec. 1532. Modification of credit for qualified electric vehicles.
- Sec. 1533. Credit for installation of alternative fueling stations.
- Sec. 1534. Volumetric excise tax credit for alternative fuels.
- Sec. 1535. Extension of excise tax provisions and income tax credit for biodiesel.

Subtitle E—Additional Energy Tax Incentives

- Sec. 1541. Ten-year recovery period for underground natural gas storage facility property.
- Sec. 1542. Expansion of research credit.
- Sec. 1543. Small agri-biodiesel producer credit.
- Sec. 1544. Improvements to small ethanol producer credit.
- Sec. 1545. Credit for equipment for processing or sorting materials gathered through recycling.
- Sec. 1546. 5-year net operating loss carryover if any resulting refund is used for electric transmission equipment.
- Sec. 1547. Credit for qualifying pollution control equipment.
- Sec. 1548. Credit for production of Indian Country coal.
- Sec. 1549. Credit for replacement wood stoves meeting environmental standards in non-attainment areas.
- Sec. 1550. Exemption for equipment for transporting bulk beds of farm crops from excise tax on retail sale of heavy trucks and trailers.
- Sec. 1551. National Academy of Sciences study and report.

Subtitle F—Revenue Raising Provisions

- Sec. 1561. Treatment of kerosene for use in aviation.
- Sec. 1562. Repeal of ultimate vendor refund claims with respect to farming.
- Sec. 1563. Refunds of excise taxes on exempt sales of fuel by credit card.
- Sec. 1564. Additional requirement for exempt purchases.
- Sec. 1565. Reregistration in event of change in ownership.
- Sec. 1566. Treatment of deep-draft vessels.
- Sec. 1567. Reconciliation of on-loaded cargo to entered cargo.
- Sec. 1568. Taxation of gasoline blendstocks and kerosene.
- Sec. 1569. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.
- Sec. 1570. Penalty with respect to certain adulterated fuels.
- Sec. 1571. Oil Spill Liability Trust Fund financing rate.
- Sec. 1572. Extension of Leaking Underground Storage Tank Trust Fund financing rate.

- 1 **Subtitle A—Electricity**
- 2 **Infrastructure**
- 3 **SEC. 1501. EXTENSION AND MODIFICATION OF RENEWABLE**
- 4 **ELECTRICITY PRODUCTION CREDIT.**
- 5 (a) 3-YEAR EXTENSION FOR CERTAIN FACILI-
- 6 TIES.—Section 45(d) (relating to qualified facilities) is
- 7 amended—

1 (1) by striking “January 1, 2006” each place
2 it appears in paragraphs (1), (2), (3), (5), (6), and
3 (7) and inserting “January 1, 2009”, and

4 (2) by striking “January 1, 2006” in paragraph
5 (4) and inserting “January 1, 2009 (January 1,
6 2006, in the case of a facility using solar energy)”.

7 (b) INCREASE IN CREDIT PERIOD.—Section
8 45(b)(4)(B) (relating to credit period) is amended—

9 (1) by inserting “or clause (iii)” after “clause
10 (ii)” in clause (i), and

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

12 “(iii) TERMINATION.—Clause (i) shall
13 not apply to any facility placed in service
14 after the date of the enactment of this
15 clause.”.

16 (c) EXPANSION OF QUALIFIED RESOURCES TO IN-
17 CLUDE FUEL CELLS.—

18 (1) IN GENERAL.—Section 45(c)(1) (defining
19 qualified energy resources) is amended by striking
20 “and” at the end of subparagraph (F), by striking
21 the period at the end of subparagraph (G) and in-
22 serting “, and”, and by adding at the end the fol-
23 lowing new subparagraph:

24 “(H) fuel cells.”.

1 (2) FUEL CELL FACILITY.—Section 45(d) (re-
2 relating to qualified facilities) is amended by adding at
3 the end the following new paragraph:

4 “(9) FUEL CELL FACILITY.—In the case of a
5 facility using an integrated system comprised of a
6 fuel cell stack assembly and associated balance of
7 plant components which converts a fuel into elec-
8 tricity using electrochemical means, the term ‘quali-
9 fied facility’ means any facility owned by the tax-
10 payer which—

11 “(A) is originally placed in service after
12 December 31, 2005, and before January 1,
13 2009,

14 “(B) has a nameplate capacity rating of at
15 least 0.5 megawatt of electricity, and

16 “(C) has an electricity-only generation effi-
17 ciency greater than 30 percent.”.

18 (3) CONFORMING AMENDMENTS RELATING TO
19 COORDINATION WITH ENERGY CREDIT.—

20 (A) IN GENERAL.—Section 45(e) (relating
21 to definitions and special rules) is amended by
22 adding at the end the following new paragraph:

23 “(10) COORDINATION WITH ENERGY CREDIT.—
24 The term ‘qualified facility’ shall not include any
25 property described in section 48(a)(3) the basis of

1 which is taken into account by the taxpayer for pur-
2 poses of determining the energy credit under section
3 48.”.

4 (B) CONFORMING AMENDMENT.—Section
5 45(d)(4) is amended by striking the last sen-
6 tence.

7 (d) EXPANSION OF QUALIFIED RESOURCES TO CER-
8 TAIN HYDROPOWER.—

9 (1) IN GENERAL.—Section 45(c)(1) (defining
10 qualified energy resources), as amended by this Act,
11 is amended by striking “and” at the end of subpara-
12 graph (G), by striking the period at the end of sub-
13 paragraph (H) and inserting “, and”, and by adding
14 at the end the following new subparagraph:

15 “(I) qualified hydropower production.”.

16 (2) CREDIT RATE.—Section 45(b)(4)(A) (relat-
17 ing to credit rate) is amended by striking “or (7)”
18 and inserting “(7), or (10)”.

19 (3) DEFINITION OF RESOURCES.—Section 45(c)
20 (relating to qualified energy resources and refined
21 coal) is amended by adding at the end the following
22 new paragraph:

23 “(8) QUALIFIED HYDROPOWER PRODUCTION.—

24 “(A) IN GENERAL.—The term ‘qualified
25 hydropower production’ means—

1 “(i) in the case of any hydroelectric
2 dam which was placed in service on or be-
3 fore the date of the enactment of this
4 paragraph, the incremental hydropower
5 production for the taxable year, and

6 “(ii) in the case of any low-head hy-
7 droelectric facility or nonhydroelectric dam
8 described in subparagraph (C), the hydro-
9 power production from the facility for the
10 taxable year.

11 “(B) DETERMINATION OF INCREMENTAL
12 HYDROPOWER PRODUCTION.—

13 “(i) IN GENERAL.—For purposes of
14 subparagraph (A), incremental hydropower
15 production for any taxable year shall be
16 equal to the percentage of average annual
17 hydropower production at the facility at-
18 tributable to the efficiency improvements
19 or additions of capacity placed in service
20 after the date of the enactment of this
21 paragraph, determined by using the same
22 water flow information used to determine
23 an historic average annual hydropower pro-
24 duction baseline for such facility. Such per-
25 centage and baseline shall be certified by

1 the Federal Energy Regulatory Commis-
2 sion.

3 “(ii) OPERATIONAL CHANGES DIS-
4 REGARDED.—For purposes of clause (i),
5 the determination of incremental hydro-
6 power production shall not be based on any
7 operational changes at such facility not di-
8 rectly associated with the efficiency im-
9 provements or additions of capacity.

10 “(C) LOW-HEAD HYDROELECTRIC FACIL-
11 ITY OR NONHYDROELECTRIC DAM.—For pur-
12 poses of subparagraph (A), a facility is de-
13 scribed in this subparagraph if—

14 “(i) the facility is licensed by the Fed-
15 eral Energy Regulatory Commission and
16 meets all other applicable environmental,
17 licensing, and regulatory requirements,

18 “(ii) the facility did not produce hy-
19 droelectric power on the date of the enact-
20 ment of this paragraph, and

21 “(iii) turbines or other generating de-
22 vices are to be added to the facility after
23 such date to produce hydroelectric power,
24 but only if the installation of the turbine
25 or other generating device does not require

1 any enlargement of the diversion structure
2 or the impoundment or any withholding of
3 any additional water from the natural
4 stream channel.

5 “(D) LOW-HEAD HYDROELECTRIC FACIL-
6 ITY DEFINED.—For purposes of this paragraph,
7 the term ‘low-head hydroelectric facility’ means
8 a minor diversion structure which is less than
9 10 feet in height.”.

10 (3) FACILITIES.—Section 45(d) (relating to
11 qualified facilities), as amended by this Act, is
12 amended by adding at the end the following new
13 paragraph:

14 “(10) QUALIFIED HYDROPOWER FACILITY.—In
15 the case of a facility producing qualified hydro-
16 electric production described in subsection (c)(8), the
17 term ‘qualified facility’ means—

18 “(A) in the case of any facility producing
19 incremental hydropower production, such facil-
20 ity but only to the extent of its incremental hy-
21 dropower production attributable to efficiency
22 improvements or additions to capacity described
23 in subsection (c)(8)(B) placed in service after
24 the date of the enactment of this paragraph
25 and before January 1, 2009, and

1 “(B) any other facility placed in service
2 after the date of the enactment of this para-
3 graph and before January 1, 2009.

4 “(C) CREDIT PERIOD.—In the case of a
5 qualified facility described in subparagraph (A),
6 the 10-year period referred to in subsection (a)
7 shall be treated as beginning on the date the ef-
8 ficiency improvements or additions to capacity
9 are placed in service.”.

10 (e) TECHNICAL AMENDMENT RELATED TO TRASH
11 COMBUSTION FACILITIES.—Section 45(d)(7) (relating to
12 trash combustion facilities) is amended by adding at the
13 end the following: “Such term shall include a new unit
14 placed in service in connection with a facility placed in
15 service on or before the date of the enactment of this para-
16 graph, but only to the extent of the increased amount of
17 electricity produced at the facility by reason of such new
18 unit.”.

19 (f) ADDITIONAL TECHNICAL AMENDMENTS RE-
20 LATED TO SECTION 710 OF THE AMERICAN JOBS CRE-
21 ATION ACT OF 2004.—

22 (1) Clause (ii) of section 45(b)(4)(B) is amend-
23 ed by striking “the date of the enactment of this
24 Act” and inserting “January 1, 2005,”.

1 (2) Clause (ii) of section 45(c)(3)(A) is amend-
2 ed by inserting “or any nonhazardous lignin waste
3 material” after “cellulosic waste material”.

4 (3) Subsection (e) of section 45 is amended by
5 striking paragraph (6).

6 (4)(A) Paragraph (9) of section 45(e) is amend-
7 ed to read as follows:

8 “(9) COORDINATION WITH CREDIT FOR PRO-
9 DUCING FUEL FROM A NONCONVENTIONAL
10 SOURCE.—

11 “(A) IN GENERAL.—The term ‘qualified
12 facility’ shall not include any facility which pro-
13 duces electricity from gas derived from the bio-
14 degradation of municipal solid waste if such
15 biodegradation occurred in a facility (within the
16 meaning of section 29) the production from
17 which is allowed as a credit under section 29
18 for the taxable year or any prior taxable year.

19 “(B) REFINED COAL FACILITIES.—The
20 term ‘refined coal production facility’ shall not
21 include any facility the production from which
22 is allowed as a credit under section 29 for the
23 taxable year or any prior taxable year.”.

24 (B) Subparagraph (C) of section 45(e)(8) is
25 amended by striking “and (9)”.

1 (5) Subclause (I) of section 168(e)(3)(B)(vi) is
2 amended to read as follows:

3 “(I) is described in subparagraph
4 (A) of section 48(a)(3) (or would be
5 so described if ‘solar and wind’ were
6 substituted for ‘solar’ in clause (i)
7 thereof and the last sentence of such
8 section did not apply to such subpara-
9 graph),”.

10 (6) Paragraph (4) of section 710(g) of the
11 American Jobs Creation Act of 2004 is amended by
12 striking “January 1, 2004” and inserting “January
13 1, 2005”.

14 (g) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall take effect of the date of the enactment of this
18 Act.

19 (2) TECHNICAL AMENDMENTS.—The amend-
20 ments made by subsections (e) and (f) shall take ef-
21 fect as if included in the amendments made by sec-
22 tion 710 of the American Jobs Creation Act of
23 2004.

1 **SEC. 1502. CLEAN RENEWABLE ENERGY BONDS.**

2 (a) IN GENERAL.—Part IV of subchapter A of chap-
3 ter 1 (relating to credits against tax) is amended by add-
4 ing at the end the following new subpart:

5 **“Subpart H—Nonrefundable Credit to Holders of**
6 **Certain Bonds**

“Sec. 54. Credit to holders of clean renewable energy bonds.

7 **“SEC. 54. CREDIT TO HOLDERS OF CLEAN RENEWABLE EN-**
8 **ERGY BONDS.**

9 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
10 a clean renewable energy bond on 1 or more credit allow-
11 ance dates of the bond occurring during any taxable year,
12 there shall be allowed as a credit against the tax imposed
13 by this chapter for the taxable year an amount equal to
14 the sum of the credits determined under subsection (b)
15 with respect to such dates.

16 “(b) AMOUNT OF CREDIT.—

17 “(1) IN GENERAL.—The amount of the credit
18 determined under this subsection with respect to any
19 credit allowance date for a clean renewable energy
20 bond is 25 percent of the annual credit determined
21 with respect to such bond.

22 “(2) ANNUAL CREDIT.—The annual credit de-
23 termined with respect to any clean renewable energy
24 bond is the product of—

1 “(A) the credit rate determined by the Sec-
2 retary under paragraph (3) for the day on
3 which such bond was sold, multiplied by

4 “(B) the outstanding face amount of the
5 bond.

6 “(3) DETERMINATION.—For purposes of para-
7 graph (2), with respect to any clean renewable en-
8 ergy bond, the Secretary shall determine daily or
9 cause to be determined daily a credit rate which
10 shall apply to the first day on which there is a bind-
11 ing, written contract for the sale or exchange of the
12 bond. The credit rate for any day is the credit rate
13 which the Secretary or the Secretary’s designee esti-
14 mates will permit the issuance of clean renewable
15 energy bonds with a specified maturity or redemp-
16 tion date without discount and without interest cost
17 to the qualified issuer.

18 “(4) CREDIT ALLOWANCE DATE.—For purposes
19 of this section, the term ‘credit allowance date’
20 means—

21 “(A) March 15,

22 “(B) June 15,

23 “(C) September 15, and

24 “(D) December 15.

1 Such term also includes the last day on which the
2 bond is outstanding.

3 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
4 DEMPTION.—In the case of a bond which is issued
5 during the 3-month period ending on a credit allow-
6 ance date, the amount of the credit determined
7 under this subsection with respect to such credit al-
8 lowance date shall be a ratable portion of the credit
9 otherwise determined based on the portion of the 3-
10 month period during which the bond is outstanding.
11 A similar rule shall apply when the bond is redeemed
12 or matures.

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

16 “(1) the sum of the regular tax liability (as de-
17 fined in section 26(b)) plus the tax imposed by sec-
18 tion 55, over

19 “(2) the sum of the credits allowable under this
20 part (other than subpart C thereof (relating to re-
21 fundable credits) and this subpart) and section
22 1397E.

23 “(d) CLEAN RENEWABLE ENERGY BOND.—For pur-
24 poses of this section—

1 “(1) IN GENERAL.—The term ‘clean renewable
2 energy bond’ means any bond issued as part of an
3 issue if—

4 “(A) the bond is issued by a qualified
5 issuer pursuant to an allocation by the Sec-
6 retary to such issuer of a portion of the na-
7 tional clean renewable energy bond limitation
8 under subsection (f)(2),

9 “(B) 95 percent or more of the proceeds
10 from the sale of such issue are to be used for
11 capital expenditures incurred by qualified bor-
12 rowers for 1 or more qualified projects,

13 “(C) the qualified issuer designates such
14 bond for purposes of this section and the bond
15 is in registered form, and

16 “(D) the issue meets the requirements of
17 subsection (h).

18 “(2) QUALIFIED PROJECT; SPECIAL USE
19 RULES.—

20 “(A) IN GENERAL.—The term ‘qualified
21 project’ means any qualified facility (as deter-
22 mined under section 45(d) without regard to
23 any placed in service date) owned by a qualified
24 borrower.

1 “(B) REFINANCING RULES.—For purposes
2 of paragraph (1)(B), a qualified project may be
3 refinanced with proceeds of a clean renewable
4 energy bond only if the indebtedness being refi-
5 nanced (including any obligation directly or in-
6 directly refinanced by such indebtedness) was
7 originally incurred by a qualified borrower after
8 the date of the enactment of this section.

9 “(C) REIMBURSEMENT.—For purposes of
10 paragraph (1)(B), a clean renewable energy
11 bond may be issued to reimburse a qualified
12 borrower for amounts paid after the date of the
13 enactment of this section with respect to a
14 qualified project, but only if—

15 “(i) prior to the payment of the origi-
16 nal expenditure, the qualified borrower de-
17 clared its intent to reimburse such expendi-
18 ture with the proceeds of a clean renewable
19 energy bond,

20 “(ii) not later than 60 days after pay-
21 ment of the original expenditure, the quali-
22 fied issuer adopts an official intent to re-
23 imburse the original expenditure with such
24 proceeds, and

1 “(iii) the reimbursement is made not
2 later than 18 months after the date the
3 original expenditure is paid.

4 “(D) TREATMENT OF CHANGES IN USE.—
5 For purposes of paragraph (1)(B), the proceeds
6 of an issue shall not be treated as used for a
7 qualified project to the extent that a qualified
8 borrower takes any action within its control
9 which causes such proceeds not to be used for
10 a qualified project. The Secretary shall pre-
11 scribe regulations specifying remedial actions
12 that may be taken (including conditions to tak-
13 ing such remedial actions) to prevent an action
14 described in the preceding sentence from caus-
15 ing a bond to fail to be a clean renewable en-
16 ergy bond.

17 “(e) MATURITY LIMITATIONS.—

18 “(1) DURATION OF TERM.—A bond shall not be
19 treated as a clean renewable energy bond if the ma-
20 turity of such bond exceeds the maximum term de-
21 termined by the Secretary under paragraph (2) with
22 respect to such bond.

23 “(2) MAXIMUM TERM.—During each calendar
24 month, the Secretary shall determine the maximum
25 term permitted under this paragraph for bonds

1 issued during the following calendar month. Such
2 maximum term shall be the term which the Sec-
3 retary estimates will result in the present value of
4 the obligation to repay the principal on the bond
5 being equal to 50 percent of the face amount of such
6 bond. Such present value shall be determined using
7 as a discount rate the average annual interest rate
8 of tax of tax-exempt obligations having a term of 10
9 years or more which are issued during the month. If
10 the term as so determined is not a multiple of a
11 whole year, such term shall be rounded to the next
12 highest whole year.

13 “(3) RATABLE PRINCIPAL AMORTIZATION RE-
14 QUIRED.—A bond shall not be treated as a clean re-
15 newable energy bond unless it is part of an issue
16 which provides for an equal amount of principal to
17 be paid by the qualified issuer during each calendar
18 year that the issue is outstanding.

19 “(f) LIMITATION ON AMOUNT OF BONDS DES-
20 IGNATED.—

21 “(1) NATIONAL LIMITATION.—There is a na-
22 tional clean renewable energy bond limitation of
23 \$1,000,000,000.

24 “(2) ALLOCATION BY SECRETARY.—The Sec-
25 retary shall allocate the amount described in para-

1 graph (1) among qualified projects in such manner
2 as the Secretary determines appropriate.

3 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross
4 income includes the amount of the credit allowed to the
5 taxpayer under this section (determined without regard to
6 subsection (c)) and the amount so included shall be treat-
7 ed as interest income.

8 “(h) SPECIAL RULES RELATING TO EXPENDI-
9 TURES.—

10 “(1) IN GENERAL.—An issue shall be treated as
11 meeting the requirements of this subsection if, as of
12 the date of issuance, the qualified issuer reasonably
13 expects—

14 “(A) at least 95 percent of the proceeds
15 from the sale of the issue are to be spent for
16 1 or more qualified projects within the 5-year
17 period beginning on the date of issuance of the
18 clean energy bond,

19 “(B) a binding commitment with a third
20 party to spend at least 10 percent of the pro-
21 ceeds from the sale of the issue will be incurred
22 within the 6-month period beginning on the
23 date of issuance of the clean energy bond or, in
24 the case of a clean energy bond the proceeds of
25 which are to be loaned to 2 or more qualified

1 borrowers, such binding commitment will be in-
2 curred within the 6-month period beginning on
3 the date of the loan of such proceeds to a quali-
4 fied borrower, and

5 “(C) such projects will be completed with
6 due diligence and the proceeds from the sale of
7 the issue will be spent with due diligence.

8 “(2) EXTENSION OF PERIOD.—Upon submis-
9 sion of a request prior to the expiration of the period
10 described in paragraph (1)(A), the Secretary may
11 extend such period if the qualified issuer establishes
12 that the failure to satisfy the 5-year requirement is
13 due to reasonable cause and the related projects will
14 continue to proceed with due diligence.

15 “(3) FAILURE TO SPEND REQUIRED AMOUNT
16 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
17 tent that less than 95 percent of the proceeds of
18 such issue are expended by the close of the 5-year
19 period beginning on the date of issuance (or if an
20 extension has been obtained under paragraph (2), by
21 the close of the extended period), the qualified issuer
22 shall redeem all of the nonqualified bonds within 90
23 days after the end of such period. For purposes of
24 this paragraph, the amount of the nonqualified

1 bonds required to be redeemed shall be determined
2 in the same manner as under section 142.

3 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
4 bond which is part of an issue shall not be treated as a
5 clean renewable energy bond unless, with respect to the
6 issue of which the bond is a part, the qualified issuer satis-
7 fies the arbitrage requirements of section 148 with respect
8 to proceeds of the issue.

9 “(j) COOPERATIVE ELECTRIC COMPANY; QUALIFIED
10 ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL
11 BODY; QUALIFIED BORROWER.—For purposes of this
12 section—

13 “(1) COOPERATIVE ELECTRIC COMPANY.—The
14 term ‘cooperative electric company’ means a mutual
15 or cooperative electric company described in section
16 501(c)(12) or section 1381(a)(2)(C), or a not-for-
17 profit electric utility which has received a loan or
18 loan guarantee under the Rural Electrification Act.

19 “(2) CLEAN RENEWABLE ENERGY BOND LEND-
20 ER.—The term ‘clean renewable energy bond lender’
21 means a lender which is a cooperative which is
22 owned by, or has outstanding loans to, 100 or more
23 cooperative electric companies and is in existence on
24 February 1, 2002, and shall include any affiliated
25 entity which is controlled by such lender.

1 “(3) GOVERNMENTAL BODY.—The term ‘gov-
2 ernmental body’ means any State, territory, posses-
3 sion of the United States, the District of Columbia,
4 Indian tribal government, and any political subdivi-
5 sion thereof.

6 “(4) QUALIFIED ISSUER.—The term ‘qualified
7 issuer’ means—

8 “(A) a clean renewable energy bond lender,

9 “(B) a cooperative electric company,

10 “(C) a governmental body, or

11 “(D) the Tennessee Valley Authority.

12 “(5) QUALIFIED BORROWER.—The term ‘quali-
13 fied borrower’ means—

14 “(A) a mutual or cooperative electric com-
15 pany described in section 501(c)(12) or
16 1381(a)(2)(C),

17 “(B) a governmental body, or

18 “(C) the Tennessee Valley Authority.

19 “(k) SPECIAL RULES RELATING TO POOL BONDS.—
20 No portion of a pooled financing bond may be allocable
21 to any loan unless the borrower has entered into a written
22 loan commitment for such portion prior to the issue date
23 of such issue.

24 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—

25 For purposes of this section—

1 “(1) BOND.—The term ‘bond’ includes any ob-
2 ligation.

3 “(2) POOLED FINANCING BOND.—The term
4 ‘pooled financing bond’ shall have the meaning given
5 such term by section 149(f)(4)(A).

6 “(3) PARTNERSHIP; S CORPORATION; AND
7 OTHER PASS-THRU ENTITIES.—

8 “(A) IN GENERAL.—Under regulations
9 prescribed by the Secretary, in the case of a
10 partnership, trust, S corporation, or other pass-
11 thru entity, rules similar to the rules of section
12 41(g) shall apply with respect to the credit al-
13 lowable under subsection (a).

14 “(B) NO BASIS ADJUSTMENT.—Rules simi-
15 lar to the rules under section 1397E(i)(2) shall
16 apply.

17 “(4) BONDS HELD BY REGULATED INVEST-
18 MENT COMPANIES.—If any clean renewable energy
19 bond is held by a regulated investment company, the
20 credit determined under subsection (a) shall be al-
21 lowed to shareholders of such company under proce-
22 dures prescribed by the Secretary.

23 “(5) TREATMENT FOR ESTIMATED TAX PUR-
24 POSES.—Solely for purposes of sections 6654 and
25 6655, the credit allowed by this section to a tax-

1 payer by reason of holding a clean renewable energy
2 bond on a credit allowance date shall be treated as
3 if it were a payment of estimated tax made by the
4 taxpayer on such date.

5 “(6) REPORTING.—Issuers of clean renewable
6 energy bonds shall submit reports similar to the re-
7 ports required under section 149(e).

8 “(m) TERMINATION.—This section shall not apply
9 with respect to any bond issued after December 31,
10 2008.”.

11 (b) REPORTING.—Subsection (d) of section 6049 (re-
12 lating to returns regarding payments of interest) is
13 amended by adding at the end the following new para-
14 graph:

15 “(8) REPORTING OF CREDIT ON CLEAN RENEW-
16 ABLE ENERGY BONDS.—

17 “(A) IN GENERAL.—For purposes of sub-
18 section (a), the term ‘interest’ includes amounts
19 includible in gross income under section 54(g)
20 and such amounts shall be treated as paid on
21 the credit allowance date (as defined in section
22 54(b)(4)).

23 “(B) REPORTING TO CORPORATIONS,
24 ETC.—Except as otherwise provided in regula-
25 tions, in the case of any interest described in

1 subparagraph (A), subsection (b)(4) shall be
2 applied without regard to subparagraphs (A),
3 (H), (I), (J), (K), and (L)(i) of such subsection.

4 “(C) REGULATORY AUTHORITY.—The Sec-
5 retary may prescribe such regulations as are
6 necessary or appropriate to carry out the pur-
7 poses of this paragraph, including regulations
8 which require more frequent or more detailed
9 reporting.”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) The table of subparts for part IV of sub-
12 chapter A of chapter 1 is amended by adding at the
13 end the following new item:

 “SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CERTAIN BONDS.”.

14 (2) Section 1397E(c)(2) is amended by insert-
15 ing “and H” after “subpart C”.

16 (3) Section 6401(b)(1) is amended by striking
17 “and G” and inserting “G, and H”.

18 (d) ISSUANCE OF REGULATIONS.—The Secretary of
19 Treasury shall issue regulations required under section 54
20 of the Internal Revenue Code of 1986 (as added by this
21 section) not later than 120 days after the date of the en-
22 actment of this Act.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to bonds issued after December
25 31, 2005.

1 **SEC. 1503. TREATMENT OF INCOME OF CERTAIN ELECTRIC**
2 **COOPERATIVES.**

3 (a) ELIMINATION OF SUNSET ON TREATMENT OF IN-
4 COME FROM OPEN ACCESS AND NUCLEAR DECOMMISS-
5 SIONING TRANSACTIONS.—Section 501(c)(12)(C) is
6 amended by striking the last sentence.

7 (b) ELIMINATION OF SUNSET ON TREATMENT OF IN-
8 COME FROM LOAD LOSS TRANSACTIONS.—Section
9 501(c)(12)(H) is amended by striking clause (x).

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act.

13 **SEC. 1504. DISPOSITIONS OF TRANSMISSION PROPERTY TO**
14 **IMPLEMENT FERC RESTRUCTURING POLICY.**

15 (a) IN GENERAL.—Section 451(i)(3) (defining quali-
16 fying electric transmission transaction) is amended by
17 striking “2007” and inserting “2008”.

18 (b) TECHNICAL AMENDMENT RELATED TO SECTION
19 909 OF THE AMERICAN JOBS CREATION ACT OF 2004.—
20 Clause (ii) of section 451(i)(4)(B) is amended by striking
21 “the close of the period applicable under subsection
22 (a)(2)(B) as extended under paragraph (2)” and inserting
23 “December 31, 2007”.

24 (c) EFFECTIVE DATES.—

1 “(B) sold by the taxpayer to an unrelated
2 person during the taxable year.

3 “(b) NATIONAL LIMITATION.—

4 “(1) IN GENERAL.—The amount of credit
5 which would (but for this subsection and subsection
6 (c)) be allowed with respect to any facility for any
7 taxable year shall not exceed the amount which
8 bears the same ratio to such amount of credit as—

9 “(A) the national megawatt capacity limi-
10 tation allocated to the facility, bears to

11 “(B) the total megawatt nameplate capac-
12 ity of such facility.

13 “(2) AMOUNT OF NATIONAL LIMITATION.—The
14 national megawatt capacity limitation shall be 6,000
15 megawatts.

16 “(3) ALLOCATION OF LIMITATION.—The Sec-
17 retary shall allocate the national megawatt capacity
18 limitation in such manner as the Secretary may pre-
19 scribe.

20 “(4) REGULATIONS.—Not later than 6 months
21 after the date of the enactment of this section, the
22 Secretary shall prescribe such regulations as may be
23 necessary or appropriate to carry out the purposes
24 of this subsection. Such regulations shall provide a
25 certification process under which the Secretary, after

1 consultation with the Secretary of Energy, shall ap-
2 prove and allocate the national megawatt capacity
3 limitation.

4 “(c) OTHER LIMITATIONS.—

5 “(1) ANNUAL LIMITATION.—The amount of the
6 credit allowable under subsection (a) (after the ap-
7 plication of subsection (b)) for any taxable year with
8 respect to any facility shall not exceed an amount
9 which bears the same ratio to \$125,000,000 as—

10 “(A) the national megawatt capacity limi-
11 tation allocated under subsection (b) to the fa-
12 cility, bears to

13 “(B) 1,000.

14 “(2) OTHER LIMITATIONS.—Rules similar to
15 the rules of section 45(b)(1) shall apply for purposes
16 of this section.

17 “(d) ADVANCED NUCLEAR POWER FACILITY.—For
18 purposes of this section—

19 “(1) IN GENERAL.—The term ‘advanced nu-
20 clear power facility’ means any advanced nuclear
21 facility—

22 “(A) which is owned by the taxpayer and
23 which uses nuclear energy to produce elec-
24 tricity, and

1 “(B) which is placed in service after the
2 date of the enactment of this paragraph and be-
3 fore January 1, 2021.

4 “(2) **ADVANCED NUCLEAR FACILITY.**—For pur-
5 poses of paragraph (1), the term ‘advanced nuclear
6 facility’ means any nuclear facility the reactor design
7 for which is approved after December 31, 1993, by
8 the Nuclear Regulatory Commission (and such de-
9 sign or a substantially similar design of comparable
10 capacity was not approved on or before such date).

11 “(e) **OTHER RULES TO APPLY.**—Rules similar to the
12 rules of paragraphs (1), (2), (3), (4), and (5) of section
13 45(e) shall apply for purposes of this section.”

14 (b) **CREDIT TREATED AS BUSINESS CREDIT.**—Sec-
15 tion 38(b) is amended by striking “plus” at the end of
16 paragraph (18), by striking the period at the end of para-
17 graph (19) and inserting “, plus”, and by adding at the
18 end the following:

19 “(20) the advanced nuclear power facility pro-
20 duction credit determined under section 45J(a).”.

21 (c) **CLERICAL AMENDMENT.**—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 is amended by adding at the end the following:

 “Sec. 45J. Credit for production from advanced nuclear power fa-
 cilities.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to production in taxable years be-
3 ginning after the date of the enactment of this Act.

4 **SEC. 1506. CREDIT FOR INVESTMENT IN CLEAN COAL FA-**
5 **CILITIES.**

6 (a) IN GENERAL.—Section 46 (relating to amount of
7 credit) is amended by striking “and” at the end of para-
8 graph (1), by striking the period at the end of paragraph
9 (2), and by adding at the end the following new para-
10 graphs:

11 “(3) the qualifying advanced coal project credit,
12 and

13 “(4) the qualifying gasification project credit.”.

14 (b) AMOUNT OF CREDITS.—Subpart E of part IV of
15 subchapter A of chapter 1 (relating to rules for computing
16 investment credit) is amended by inserting after section
17 48 the following new sections:

18 **“SEC. 48A. QUALIFYING ADVANCED COAL PROJECT CRED-**
19 **IT.**

20 “(a) IN GENERAL.—For purposes of section 46, the
21 qualifying advanced coal project credit for any taxable
22 year is an amount equal to 20 percent of the qualified
23 investment for such taxable year.

24 “(b) QUALIFIED INVESTMENT.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (a), the qualified investment for any taxable year is
3 the basis of property placed in service by the tax-
4 payer during such taxable year which is part of a
5 qualifying advanced coal project—

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

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

12 “(B) with respect to which depreciation (or
13 amortization in lieu of depreciation) is allow-
14 able.

15 “(2) APPLICABLE RULES.—For purposes of this
16 section, rules similar to the rules of subsection
17 (a)(4) and (b) of section 48 shall apply.

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

19 “(1) QUALIFYING ADVANCED COAL PROJECT.—
20 The term ‘qualifying advanced coal project’ means a
21 project which meets the requirements of subsection
22 (e).

23 “(2) ADVANCED COAL-BASED GENERATION
24 TECHNOLOGY.—The term ‘advanced coal-based gen-

1 eration technology’ means a technology which meets
2 the requirements of subsection (g).

3 “(3) COAL.—The term ‘coal’ means any carbon-
4 ized or semicarbonized matter, including peat.

5 “(4) GREENHOUSE GAS CAPTURE CAPA-
6 BILITY.—The term ‘greenhouse gas capture capa-
7 bility’ means an integrated gasification combined
8 cycle technology facility capable of adding compo-
9 nents which can capture, separate on a long-term
10 basis, isolate, remove, and sequester greenhouse
11 gases which result from the generation of electricity.

12 “(5) ELECTRIC GENERATION UNIT.—The term
13 ‘electric generation unit’ means any facility at least
14 50 percent of the total annual net output of which
15 is electrical power, including an otherwise eligible fa-
16 cility which is used in an industrial application.

17 “(6) INTEGRATED GASIFICATION COMBINED
18 CYCLE.—The term ‘integrated gasification combined
19 cycle’ means an electric generation unit which pro-
20 duces electricity by converting coal to synthesis gas
21 which is used to fuel a combined-cycle plant which
22 produces electricity from both a combustion turbine
23 (including a combustion turbine/fuel cell hybrid) and
24 a steam turbine.

1 “(d) QUALIFYING ADVANCED COAL PROJECT PRO-
2 GRAM.—

3 “(1) ESTABLISHMENT.—Not later than 180
4 days after the date of enactment of this section, the
5 Secretary, in consultation with the Secretary of En-
6 ergy, shall establish a qualifying advanced coal
7 project program for the deployment of advanced
8 coal-based generation technologies.

9 “(2) CERTIFICATION.—

10 “(A) IN GENERAL.—The Secretary may
11 certify a qualifying advanced coal project as eli-
12 gible for a credit under this section.

13 “(B) PERIOD OF ISSUANCE.—A certificate
14 of eligibility under this paragraph may be
15 issued only during the 10-fiscal year period be-
16 ginning on October 1, 2005.

17 “(3) AGGREGATE GENERATING CAPACITY.—

18 “(A) IN GENERAL.—The aggregate gener-
19 ating capacity of projects certified by the Sec-
20 retary under paragraph (2) may not exceed
21 7,500 megawatts.

22 “(B) PARTICULAR PROJECTS.—Of the
23 total megawatts of capacity which the Secretary
24 is authorized to certify—

1 “(i) 4,125 megawatts shall be avail-
2 able only for use for integrated gasification
3 combined cycle projects, and

4 “(ii) 3,375 megawatts shall be avail-
5 able only for use for projects which use
6 other advanced coal-based generation tech-
7 nologies.

8 “(C) DETERMINATION OF CAPACITY.—In
9 determining capacity under this paragraph in
10 the case of a retrofitted or repowered plant, ca-
11 pacity shall be determined based on total design
12 capacity after the retrofit or repowering of the
13 existing facility is accomplished.

14 “(4) APPLICATIONS.—The Secretary shall act
15 on applications for certification as the applications
16 are received.

17 “(5) DETERMINATION.—In determining wheth-
18 er to certify a qualifying advanced coal project, the
19 Secretary shall take into account any written state-
20 ment from the Governor of the State in which the
21 project is to be sited that the construction and oper-
22 ation of the project is consistent with State environ-
23 mental and energy policy and requirements.

24 “(6) REVIEW AND REDISTRIBUTION.—

1 “(A) REVIEW.—Not later than 6 years
2 after the date of enactment of this section, the
3 Secretary shall review the projects certified and
4 megawatts allocated under this section as of the
5 date which is 6 years after the date of enact-
6 ment of this section.

7 “(B) REDISTRIBUTION.—The Secretary
8 may reallocate the megawatts available under
9 clauses (i) and (ii) of paragraph (3)(B) if the
10 Secretary determines that—

11 “(i) capacity cannot be used because
12 there is an insufficient quantity of quali-
13 fying applications for certification pending
14 for any available capacity at the time of
15 the review, or

16 “(ii) any certification commitment
17 made pursuant to subsection (e)(4)(B) has
18 not been revoked pursuant to subsection
19 (f)(2)(B)(ii) because the project subject to
20 the certification commitment has been de-
21 layed as a result of third party opposition
22 or litigation to the proposed project.

23 “(e) QUALIFYING ADVANCED COAL PROJECTS.—

24 “(1) REQUIREMENTS.—For purposes of sub-
25 section (c)(1), a project shall be considered a quali-

1 fying advanced coal project that the Secretary may
2 certify under subsection (d)(2) if the Secretary de-
3 termines that, at a minimum—

4 “(A) the project uses an advanced coal-
5 based generation technology—

6 “(i) to power a new electric generation
7 or polygeneration unit, or

8 “(ii) to retrofit or repower an existing
9 electric generation unit (including an exist-
10 ing natural gas-fired combined cycle unit),

11 “(B) the fuel input for the project, when
12 completed, is at least 75 percent coal,

13 “(C) the applicant provides an assurance
14 satisfactory to the Secretary that—

15 “(i) the project is technologically fea-
16 sible, and

17 “(ii) the project is not financially fea-
18 sible without the Federal financial incen-
19 tives, after taking into account—

20 “(I) regulatory approvals or
21 power purchase contracts referred to
22 in subparagraph (D),

23 “(II) arrangements for the sup-
24 ply of fuel to the project,

1 “(III) contracts or other arrange-
2 ments for construction of the project
3 facilities,

4 “(IV) any performance guaran-
5 tees to be provided by contractors and
6 equipment vendors, and

7 “(V) evidence of the availability
8 of funds to develop and construct the
9 project,

10 “(D) the applicant demonstrates that the
11 applicant has obtained—

12 “(i) approval by the appropriate regu-
13 latory commission of the recovery of the
14 cost of the project, or

15 “(ii) a power purchase agreement (or
16 letter of intent, subject to paragraph (3))
17 which has been approved by the board of
18 directors of, and executed by, a credit-
19 worthy purchasing party,

20 “(E) except as provided in subsection
21 (f)(2), the applicant demonstrates that the ap-
22 plicant has, or will, obtain all project agree-
23 ments and approvals, and

24 “(F) the project will be located in the
25 United States.

1 “(2) PRIORITY FOR INTEGRATED GASIFICATION
2 COMBINED CYCLE PROJECTS.—In determining which
3 qualifying advanced coal projects to certify under
4 subsection (d)(3)(B)(i), the Secretary shall—

5 “(A) certify capacity to—

6 “(i) projects using bituminous coal as
7 a primary feedstock,

8 “(ii) projects using subbituminous
9 coal as a primary feedstock, and

10 “(iii) projects using lignite as a pri-
11 mary feedstock, and

12 “(B) give high priority to projects which
13 include, as determined by the Secretary—

14 “(i) greenhouse gas capture capa-
15 bility,

16 “(ii) increased by-product utilization,
17 and

18 “(iii) other benefits.

19 “(3) LETTER OF INTENT.—A letter of intent
20 described in paragraph (1)(D)(ii) shall be replaced
21 by a binding contract before a certificate may be
22 issued.

23 “(f) PROJECT AGREEMENTS AND APPROVALS.—

24 “(1) DEFINITION OF PROJECT AGREEMENTS
25 AND APPROVALS.—For purposes of this subsection,

1 the term ‘project agreements and approvals’
2 means—

3 “(A) all necessary power purchase agree-
4 ments, and all other contracts, which the Sec-
5 retary determines are necessary to construct, fi-
6 nance, and operate a project, and

7 “(B) all authorizations by Federal, State,
8 and local agencies which are required to con-
9 struct, operate, and recover the cost of the
10 project.

11 “(2) CERTIFICATION COMMITMENT.—

12 “(A) IN GENERAL.—If the applicant has
13 not obtained all agreements and approvals prior
14 to application, the Secretary may issue a certifi-
15 cation commitment.

16 “(B) REQUIREMENTS.—

17 “(i) IN GENERAL.—An applicant
18 which receives a certification commitment
19 shall obtain any remaining project agree-
20 ments and approvals not later than 4 years
21 after the issuance of the certification com-
22 mitment.

23 “(ii) REVOCATION.—If all project
24 agreements and approvals are not obtained
25 during the 4-year period described in

1 clause (i), the certification commitment is
 2 terminated without any other action by the
 3 Secretary.

4 “(iii) FINAL CERTIFICATE.—No cer-
 5 tificate may be issued until all project
 6 agreements and approvals are obtained.

7 “(g) ADVANCED COAL-BASED GENERATION TECH-
 8 NOLOGY.—

9 “(1) IN GENERAL.—For the purpose of this
 10 section, an electric generation unit uses advanced
 11 coal-based generation technology if—

12 “(A) the unit—

13 “(i) uses integrated gasification com-
 14 bined cycle technology, or

15 “(ii) except as provided in paragraph
 16 (3), has a design net heat rate of 8530
 17 Btu/kWh (40 percent efficiency), and

18 “(B) the vendor warrants that the unit is
 19 designed to meet the performance requirements
 20 in the following table:

| Performance characteristic: | Design level for project: |
|---|----------------------------------|
| SO ₂ (percent removal) | 99 percent |
| NO _x (emissions) | 0.07 lbs/MMBTU |
| PM* (emissions) | 0.015 lbs/MMBTU |
| Hg (percent removal) | 90 percent |

1 “(2) DESIGN NET HEAT RATE.—For purposes
2 of this subsection, design net heat rate with respect
3 to an electric generation unit shall—

4 “(A) be measured in Btu per kilowatt hour
5 (higher heating value),

6 “(B) be based on the design annual heat
7 input to the unit and the rated net electrical
8 power, fuels, and chemicals output of the unit
9 (determined without regard to the cogeneration
10 of steam by the unit),

11 “(C) be adjusted for the heat content of
12 the design coal to be used by the unit—

13 “(i) if the heat content is less than
14 13,500 Btu per pound, but greater than
15 7,000 Btu per pound, according to the fol-
16 lowing formula: design net heat rate =
17 unit net heat rate x [1-{\((13,500-design
18 coal heat content, Btu per pound)/1,000)*
19 0.013}], and

20 “(ii) if the heat content is less than or
21 equal to 7,000 Btu per pound, according
22 to the following formula: design net heat
23 rate = unit net heat rate x [1-{\((13,500-
24 design coal heat content, Btu per pound)/
25 1,000)* 0.018}], and

1 “(D) be corrected for the site reference
2 conditions of—

3 “(i) elevation above sea level of 500
4 feet,

5 “(ii) air pressure of 14.4 pounds per
6 square inch absolute,

7 “(iii) temperature, dry bulb of 63/o/F,

8 “(iv) temperature, wet bulb of 54/o/F,

9 and

10 “(v) relative humidity of 55 percent.

11 (3) EXISTING UNITS.—In the case of any elec-
12 tric generation unit in existence on the date of the
13 enactment of this section, such unit uses advanced
14 coal-based generation technology if, in lieu of the re-
15 quirements under paragraph (1)(A)(ii), such unit
16 achieves a minimum efficiency of 35 percent and an
17 overall thermal design efficiency improvement, com-
18 pared to the efficiency of the unit as operated, of not
19 less than—

20 (A) 7 percentage points for coal of more
21 than 9,000 Btu,

22 (B) 6 percentage points for coal of 7,000
23 to 9,000 Btu, or

24 (C) 4 percentage points for coal of less
25 than 7,000 Btu.

1 **“SEC. 48B. QUALIFYING GASIFICATION PROJECT CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 46, the
3 qualifying gasification project credit for any taxable year
4 is an amount equal to 20 percent of the qualified invest-
5 ment for such taxable year.

6 “(b) QUALIFIED INVESTMENT.—

7 “(1) IN GENERAL.—For purposes of subsection
8 (a), the qualified investment for any taxable year is
9 the basis of property placed in service by the tax-
10 payer during such taxable year which is part of a
11 qualifying gasification project—

12 “(A)(i) the construction, reconstruction, or
13 erection of which is completed by the taxpayer,
14 or

15 “(ii) which is acquired by the taxpayer if
16 the original use of such property commences
17 with the taxpayer, and

18 “(B) with respect to which depreciation (or
19 amortization in lieu of depreciation) is allow-
20 able.

21 “(2) APPLICABLE RULES.—For purposes of this
22 section, rules similar to the rules of subsection
23 (a)(4) and (b) of section 48 shall apply.

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

1 “(ii) byproduct of wood or paper mill
2 operations, including lignin in spent
3 pulping liquors, and

4 “(iii) other products of forestry main-
5 tenance.

6 “(B) EXCLUSION.—The term ‘biomass’
7 does not include paper which is commonly recy-
8 cled.

9 “(4) CARBON CAPTURE CAPABILITY.—The term
10 ‘carbon capture capability’ means a gasification
11 plant design which is determined by the Secretary to
12 reflect reasonable consideration for, and be capable
13 of, accommodating the equipment likely to be nec-
14 essary to capture carbon dioxide from the gaseous
15 stream, for later use or sequestration, which would
16 otherwise be emitted in the flue gas from a project
17 which uses a nonrenewable fuel.

18 “(5) COAL.—The term ‘coal’ means any carbon-
19 ized or semicarbonized matter, including peat.

20 “(6) ELIGIBLE ENTITY.—The term ‘eligible en-
21 tity’ means any person whose application for certifi-
22 cation is principally intended for use in a domestic
23 project which employs domestic gasification applica-
24 tions related to—

25 “(A) chemicals,

1 “(B) fertilizers,
2 “(C) glass,
3 “(D) steel,
4 “(E) petroleum residues,
5 “(F) forest products, and
6 “(G) agriculture, including feedlots and
7 dairy operations.

8 “(7) PETROLEUM RESIDUE.—The term ‘petro-
9 leum residue’ means the carbonized product of high-
10 boiling hydrocarbon fractions obtained in petroleum
11 processing.

12 “(d) QUALIFYING GASIFICATION PROJECT PRO-
13 GRAM.—

14 “(1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Secretary of Energy, shall establish a
16 qualifying gasification project program to consider
17 and award certifications for qualified investment eli-
18 gible for credits under this section to qualifying gas-
19 ification project sponsors under this section. The
20 total qualified investment which may be awarded eli-
21 gibility for credit under the program shall not exceed
22 \$4,000,000,000.

23 “(2) PERIOD OF ISSUANCE.—A certificate of
24 eligibility under paragraph (1) may be issued only

1 during the 10-fiscal year period beginning on Octo-
2 ber 1, 2005.

3 “(3) SELECTION CRITERIA.—The Secretary
4 shall not make a competitive certification award for
5 qualified investment for credit eligibility under this
6 section unless the recipient has documented to the
7 satisfaction of the Secretary that—

8 “(A) the award recipient is financially via-
9 ble without the receipt of additional Federal
10 funding associated with the proposed project,

11 “(B) the recipient will provide sufficient
12 information to the Secretary for the Secretary
13 to ensure that the qualified investment is spent
14 efficiently and effectively,

15 “(C) a market exists for the products of
16 the proposed project as evidenced by contracts
17 or written statements of intent from potential
18 customers,

19 “(D) the fuels identified with respect to
20 the gasification technology for such project will
21 comprise at least 90 percent of the fuels re-
22 quired by the project for the production of
23 chemical feedstocks, liquid transportation fuels,
24 or coproduction of electricity,

1 “(E) the award recipient’s project team is
2 competent in the construction and operation of
3 the gasification technology proposed, with pref-
4 erence given to those recipients with experience
5 which demonstrates successful and reliable op-
6 erations of the technology on domestic fuels so
7 identified, and

8 “(F) the award recipient has met other cri-
9 teria established and published by the Sec-
10 retary.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 49(a)(1)(C) is amended by striking
13 “and” at the end of clause (ii), by striking clause
14 (iii), and by adding after clause (ii) the following
15 new clauses:

16 “(iii) the basis of any property which
17 is part of a qualifying advanced coal
18 project under section 48A, and

19 “(iv) the basis of any property which
20 is part of a qualifying gasification project
21 under section 48B.”.

22 (2) The table of sections for subpart E of part
23 IV of subchapter A of chapter 1 is amended by in-
24 serting after the item relating to section 48 the fol-
25 lowing new items:

“48A. Qualifying advanced coal project credit.

“48B. Qualifying gasification project credit.”.

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

7 **SEC. 1507. CLEAN ENERGY COAL BONDS.**

8 (a) **IN GENERAL.**—Subpart H of part IV of sub-
9 chapter A of chapter 1 (relating to credits against tax),
10 as added by this Act, is amended by adding at the end
11 the following new section:

12 **“SEC. 54A. CREDIT TO HOLDERS OF CLEAN ENERGY COAL**
13 **BONDS.**

14 “(a) **ALLOWANCE OF CREDIT.**—If a taxpayer holds
15 a clean energy coal bond on 1 or more credit allowance
16 dates of the bond occurring during any taxable year, there
17 shall be allowed as a credit against the tax imposed by
18 this chapter for the taxable year an amount equal to the
19 sum of the credits determined under subsection (b) with
20 respect to such dates.

21 “(b) **AMOUNT OF CREDIT.**—

22 “(1) **IN GENERAL.**—The amount of the credit
23 determined under this subsection with respect to any
24 credit allowance date for a clean energy coal bond is

1 25 percent of the annual credit determined with re-
2 spect to such bond.

3 “(2) ANNUAL CREDIT.—The annual credit de-
4 termined with respect to any clean energy coal bond
5 is the product of—

6 “(A) the credit rate determined by the Sec-
7 retary under paragraph (3) for the day on
8 which such bond was sold, multiplied by

9 “(B) the outstanding face amount of the
10 bond.

11 “(3) DETERMINATION.—For purposes of para-
12 graph (2), with respect to any clean energy coal
13 bond, the Secretary shall determine daily or cause to
14 be determined daily a credit rate which shall apply
15 to the first day on which there is a binding, written
16 contract for the sale or exchange of the bond. The
17 credit rate for any day is the credit rate which the
18 Secretary or the Secretary’s designee estimates will
19 permit the issuance of clean energy coal bonds with
20 a specified maturity or redemption date without dis-
21 count and without interest cost to the qualified
22 issuer.

23 “(4) CREDIT ALLOWANCE DATE.—For purposes
24 of this section, the term ‘credit allowance date’
25 means—

- 1 “(A) March 15,
2 “(B) June 15,
3 “(C) September 15, and
4 “(D) December 15.

5 Such term also includes the last day on which the
6 bond is outstanding.

7 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
8 DEMPTION.—In the case of a bond which is issued
9 during the 3-month period ending on a credit allow-
10 ance date, the amount of the credit determined
11 under this subsection with respect to such credit al-
12 lowance date shall be a ratable portion of the credit
13 otherwise determined based on the portion of the 3-
14 month period during which the bond is outstanding.
15 A similar rule shall apply when the bond is redeemed
16 or matures.

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

20 “(1) the sum of the regular tax liability (as de-
21 fined in section 26(b)) plus the tax imposed by sec-
22 tion 55, over

23 “(2) the sum of the credits allowable under this
24 part (other than subpart C thereof (relating to re-

1 fundable credits) and this section) and section
2 1397E.

3 “(d) CLEAN ENERGY COAL BOND.—For purposes of
4 this section—

5 “(1) IN GENERAL.—The term ‘clean energy
6 coal bond’ means any bond issued as part of an
7 issue if—

8 “(A) the bond is issued by a qualified
9 issuer pursuant to an allocation by the Sec-
10 retary to such issuer of a portion of the na-
11 tional clean energy coal bond limitation under
12 subsection (f)(2),

13 “(B) 95 percent or more of the proceeds
14 from the sale of such issue are to be used for
15 capital expenditures incurred by qualified bor-
16 rowers for 1 or more qualified projects,

17 “(C) the qualified issuer designates such
18 bond for purposes of this section and the bond
19 is in registered form, and

20 “(D) the issue meets the requirements of
21 subsection (h).

22 “(2) QUALIFIED PROJECT; SPECIAL USE
23 RULES.—

24 “(A) IN GENERAL.—The term ‘qualified
25 project’ means a qualifying advanced coal

1 project (as defined in section 48A(c)(1)) placed
2 in service by a qualified borrower.

3 “(B) REFINANCING RULES.—For purposes
4 of paragraph (1)(B), a qualified project may be
5 refinanced with proceeds of a clean energy coal
6 bond only if the indebtedness being refinanced
7 (including any obligation directly or indirectly
8 refinanced by such indebtedness) was originally
9 incurred by a qualified borrower after the date
10 of the enactment of this section.

11 “(C) REIMBURSEMENT.—For purposes of
12 paragraph (1)(B), a clean energy coal bond
13 may be issued to reimburse a qualified borrower
14 for amounts paid after the date of the enact-
15 ment of this section with respect to a qualified
16 project, but only if—

17 “(i) prior to the payment of the origi-
18 nal expenditure, the qualified borrower de-
19 clared its intent to reimburse such expendi-
20 ture with the proceeds of a clean energy
21 coal bond,

22 “(ii) not later than 60 days after pay-
23 ment of the original expenditure, the quali-
24 fied issuer adopts an official intent to re-

1 imburse the original expenditure with such
2 proceeds, and

3 “(iii) the reimbursement is made not
4 later than 18 months after the date the
5 original expenditure is paid.

6 “(D) TREATMENT OF CHANGES IN USE.—

7 For purposes of paragraph (1)(B), the proceeds
8 of an issue shall not be treated as used for a
9 qualified project to the extent that a qualified
10 borrower takes any action within its control
11 which causes such proceeds not to be used for
12 a qualified project. The Secretary shall pre-
13 scribe regulations specifying remedial actions
14 that may be taken (including conditions to tak-
15 ing such remedial actions) to prevent an action
16 described in the preceding sentence from caus-
17 ing a bond to fail to be a clean energy coal
18 bond.

19 “(e) MATURITY LIMITATIONS.—

20 “(1) DURATION OF TERM.—A bond shall not be
21 treated as a clean energy coal bond if the maturity
22 of such bond exceeds the maximum term determined
23 by the Secretary under paragraph (2) with respect
24 to such bond.

1 “(2) MAXIMUM TERM.—During each calendar
2 month, the Secretary shall determine the maximum
3 term permitted under this paragraph for bonds
4 issued during the following calendar month. Such
5 maximum term shall be the term which the Sec-
6 retary estimates will result in the present value of
7 the obligation to repay the principal on the bond
8 being equal to 50 percent of the face amount of such
9 bond. Such present value shall be determined using
10 as a discount rate the average annual interest rate
11 of tax of tax-exempt obligations having a term of 10
12 years or more which are issued during the month. If
13 the term as so determined is not a multiple of a
14 whole year, such term shall be rounded to the next
15 highest whole year.

16 “(3) RATABLE PRINCIPAL AMORTIZATION RE-
17 QUIRED.—A bond shall not be treated as a clean en-
18 ergy coal bond unless it is part of an issue which
19 provides for an equal amount of principal to be paid
20 by the qualified issuer during each calendar year
21 that the issue is outstanding.

22 “(f) LIMITATION ON AMOUNT OF BONDS DES-
23 IGNATED.—

1 “(1) NATIONAL LIMITATION.—There is a na-
2 tional clean energy coal bond limitation of
3 \$1,000,000,000.

4 “(2) ALLOCATION BY SECRETARY.—The Sec-
5 retary shall allocate the amount described in para-
6 graph (1) among qualified projects in such manner
7 as the Secretary determines appropriate.

8 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross
9 income includes the amount of the credit allowed to the
10 taxpayer under this section (determined without regard to
11 subsection (c)) and the amount so included shall be treat-
12 ed as interest income.

13 “(h) SPECIAL RULES RELATING TO EXPENDI-
14 TURES.—

15 “(1) IN GENERAL.—An issue shall be treated as
16 meeting the requirements of this subsection if, as of
17 the date of issuance, the qualified issuer reasonably
18 expects—

19 “(A) at least 95 percent of the proceeds
20 from the sale of the issue are to be spent for
21 1 or more qualified projects within the 5-year
22 period beginning on the date of issuance of the
23 clean energy bond,

24 “(B) a binding commitment with a third
25 party to spend at least 10 percent of the pro-

1 ceeds from the sale of the issue will be incurred
2 within the 6-month period beginning on the
3 date of issuance of the clean energy bond or, in
4 the case of a clean energy bond the proceeds of
5 which are to be loaned to 2 or more qualified
6 borrowers, such binding commitment will be in-
7 curred within the 6-month period beginning on
8 the date of the loan of such proceeds to a quali-
9 fied borrower, and

10 “(C) such projects will be completed with
11 due diligence and the proceeds from the sale of
12 the issue will be spent with due diligence.

13 “(2) EXTENSION OF PERIOD.—Upon submis-
14 sion of a request prior to the expiration of the period
15 described in paragraph (1)(A), the Secretary may
16 extend such period if the qualified issuer establishes
17 that the failure to satisfy the 5-year requirement is
18 due to reasonable cause and the related projects will
19 continue to proceed with due diligence.

20 “(3) FAILURE TO SPEND REQUIRED AMOUNT
21 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
22 tent that less than 95 percent of the proceeds of
23 such issue are expended by the close of the 5-year
24 period beginning on the date of issuance (or if an
25 extension has been obtained under paragraph (2), by

1 the close of the extended period), the qualified issuer
2 shall redeem all of the nonqualified bonds within 90
3 days after the end of such period. For purposes of
4 this paragraph, the amount of the nonqualified
5 bonds required to be redeemed shall be determined
6 in the same manner as under section 142.

7 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
8 bond which is part of an issue shall not be treated as a
9 clean energy coal bond unless, with respect to the issue
10 of which the bond is a part, the qualified issuer satisfies
11 the arbitrage requirements of section 148 with respect to
12 proceeds of the issue.

13 “(j) COOPERATIVE ELECTRIC COMPANY; QUALIFIED
14 ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL
15 BODY; QUALIFIED BORROWER.—For purposes of this
16 section—

17 “(1) COOPERATIVE ELECTRIC COMPANY.—The
18 term ‘cooperative electric company’ means a mutual
19 or cooperative electric company described in section
20 501(c)(12) or section 1381(a)(2)(C), or a not-for-
21 profit electric utility which has received a loan or
22 loan guarantee under the Rural Electrification Act.

23 “(2) CLEAN ENERGY BOND LENDER.—The
24 term ‘clean energy bond lender’ means a lender
25 which is a cooperative which is owned by, or has out-

1 standing loans to, 100 or more cooperative electric
2 companies and is in existence on February 1, 2002,
3 and shall include any affiliated entity which is con-
4 trolled by such lender.

5 “(3) GOVERNMENTAL BODY.—The term ‘gov-
6 ernmental body’ means any State, territory, posses-
7 sion of the United States, the District of Columbia,
8 Indian tribal government, and any political subdivi-
9 sion thereof.

10 “(4) QUALIFIED ISSUER.—The term ‘qualified
11 issuer’ means—

12 “(A) a clean energy bond lender,

13 “(B) a cooperative electric company,

14 “(C) a governmental body, or

15 “(D) the Tennessee Valley Authority.

16 “(5) QUALIFIED BORROWER.—The term ‘quali-
17 fied borrower’ means—

18 “(A) a mutual or cooperative electric com-
19 pany described in section 501(c)(12) or
20 1381(a)(2)(C),

21 “(B) a governmental body, or

22 “(C) the Tennessee Valley Authority.

23 “(k) SPECIAL RULES RELATING TO POOL BONDS.—

24 No portion of a pooled financing bond may be allocable
25 to any loan unless the borrower has entered into a written

1 loan commitment for such portion prior to the issue date
2 of such issue.

3 “(1) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) BOND.—The term ‘bond’ includes any ob-
6 ligation.

7 “(2) POOLED FINANCING BOND.—The term
8 ‘pooled financing bond’ shall have the meaning given
9 such term by section 149(f)(4)(A).

10 “(3) PARTNERSHIP; S CORPORATION; AND
11 OTHER PASS-THRU ENTITIES.—

12 “(A) IN GENERAL.—Under regulations
13 prescribed by the Secretary, in the case of a
14 partnership, trust, S corporation, or other pass-
15 thru entity, rules similar to the rules of section
16 41(g) shall apply with respect to the credit al-
17 lowable under subsection (a).

18 “(B) NO BASIS ADJUSTMENT.—Rules simi-
19 lar to the rules under section 1397E(i)(2) shall
20 apply.

21 “(4) BONDS HELD BY REGULATED INVEST-
22 MENT COMPANIES.—If any clean energy coal bond is
23 held by a regulated investment company, the credit
24 determined under subsection (a) shall be allowed to

1 shareholders of such company under procedures pre-
2 scribed by the Secretary.

3 “(5) TREATMENT FOR ESTIMATED TAX PUR-
4 POSES.—Solely for purposes of sections 6654 and
5 6655, the credit allowed by this section to a tax-
6 payer by reason of holding a clean energy coal bond
7 on a credit allowance date shall be treated as if it
8 were a payment of estimated tax made by the tax-
9 payer on such date.

10 “(6) REPORTING.—Issuers of clean energy coal
11 bonds shall submit reports similar to the reports re-
12 quired under section 149(e).

13 “(m) TERMINATION.—This section shall not apply
14 with respect to any bond issued after December 31,
15 2010.”

16 (b) REPORTING.—Subsection (d) of section 6049 (re-
17 lating to returns regarding payments of interest), as
18 amended by this Act, is amended by adding at the end
19 the following new paragraph:

20 “(9) REPORTING OF CREDIT ON CLEAN ENERGY
21 COAL BONDS.—

22 “(A) IN GENERAL.—For purposes of sub-
23 section (a), the term ‘interest’ includes amounts
24 includible in gross income under section 54A(g)
25 and such amounts shall be treated as paid on

1 the credit allowance date (as defined in section
2 54A(b)(4)).

3 “(B) REPORTING TO CORPORATIONS,
4 ETC.—Except as otherwise provided in regula-
5 tions, in the case of any interest described in
6 subparagraph (A), subsection (b)(4) shall be
7 applied without regard to subparagraphs (A),
8 (H), (I), (J), (K), and (L)(i) of such subsection.

9 “(C) REGULATORY AUTHORITY.—The Sec-
10 retary may prescribe such regulations as are
11 necessary or appropriate to carry out the pur-
12 poses of this paragraph, including regulations
13 which require more frequent or more detailed
14 reporting.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for subpart H of part IV of subchapter A of chapter 1,
17 as added by this Act, is amended by adding at the end
18 the following new item:

“Sec. 54A. Credit to holders of clean energy coal bonds.”.

19 (d) ISSUANCE OF REGULATIONS.—The Secretary of
20 Treasury shall issue regulations required under section
21 54A of the Internal Revenue Code of 1986 (as added by
22 this section) not later than 120 days after the date of the
23 enactment of this Act.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to bonds issued after December
3 31, 2005.

4 **Subtitle B—Domestic Fossil Fuel**
5 **Security**

6 **SEC. 1511. CREDIT FOR INVESTMENT IN CLEAN COKE/CO-**
7 **GENERATION MANUFACTURING FACILITIES.**

8 (a) ALLOWANCE OF CLEAN COKE/COGENERATION
9 MANUFACTURING FACILITIES CREDIT.—Section 46 (relat-
10 ing to amount of credit), as amended by this Act, is
11 amended by striking “and” at the end of paragraph (3),
12 by striking the period at the end of paragraph (4), and
13 inserting “, and”, and by adding at the end the following
14 new paragraph:

15 “(5) the clean coke/cogeneration manufacturing
16 facilities credit.”.

17 (b) AMOUNT OF CLEAN COKE/COGENERATION MAN-
18 UFACTURING FACILITIES CREDIT.—Subpart E of part IV
19 of subchapter A of chapter 1 (relating to rules for com-
20 puting investment credit), as amended by this Act, is
21 amended by inserting after section 48B the following new
22 section:

1 **“SEC. 48C. CLEAN COKE/COGENERATION MANUFACTURING**
2 **FACILITIES CREDIT.**

3 “(a) IN GENERAL.—For purposes of section 46, the
4 clean coke/cogeneration manufacturing facilities credit for
5 any taxable year is an amount equal to 20 percent of the
6 qualified investment for such taxable year.

7 “(b) QUALIFIED INVESTMENT.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a), the qualified investment for any taxable year is
10 the basis of each clean coke/cogeneration manufac-
11 turing facilities property placed in service by the tax-
12 payer during such taxable year.

13 “(2) CLEAN COKE/COGENERATION MANUFAC-
14 TURING FACILITIES PROPERTY.—For purposes of
15 this section, the term ‘clean coke/cogeneration manu-
16 facturing facilities property’ means real and tangible
17 personal property which—

18 “(A) is depreciable under section 167,

19 “(B) is located in the United States,

20 “(C) is used for the manufacture of met-
21 allurgical coke or for the production of steam or
22 electricity from waste heat generated during the
23 production of metallurgical coke, and

24 “(D) does not exceed any of the following
25 emission limitations—

1 “(i) 0.0 percent leaking for any coke
2 oven doors unless the operation of ovens is
3 under negative pressure,

4 “(ii) 0.0 percent leaking for any top-
5 side port lids,

6 “(iii) 0.0 percent leaking for any
7 offtake system,
8 determined as provided for in section
9 63.303(b)(1)(ii) or 63.309(d)(1) of title 40,
10 Code of Federal Regulations.

11 “(c) TERMINATION.—This subsection shall not apply
12 to property for periods after December 31, 2009.”.

13 (c) TECHNICAL AMENDMENT.—Section 50(c) is
14 amended by adding at the end the following new para-
15 graph:

16 “(6) SPECIAL RULE FOR COKE/COGENERATION
17 FACILITIES.—Paragraphs (1) and (2) shall not apply
18 to any property with respect to the credit deter-
19 mined under section 48C.”.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Section 49(a)(1)(C), as amended by this
22 Act, is amended by striking “and” at the end of
23 clause (iii), by striking the period at the end of
24 clause (iv) and inserting “, and”, and by adding at
25 the end the following new clause:

1 “(v) the basis of any clean coke/cogen-
2 eration manufacturing facilities property.”

3 (2) The table of sections for subpart E of part
4 IV of subchapter A of chapter 1, as amended by this
5 Act, is amended by inserting after the item relating
6 to section 48B the following new item:

“48C. Clean coke/cogeneration manufacturing facilities credit.”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to periods after the date of the
9 enactment of this Act, under rules similar to the rules of
10 section 48(m) of the Internal Revenue Code of 1986 (as
11 in effect on the day before the date of the enactment of
12 the Revenue Reconciliation Act of 1990).

13 **SEC. 1512. TEMPORARY EXPENSING FOR EQUIPMENT USED**
14 **IN REFINING OF LIQUID FUELS.**

15 (A) IN GENERAL.—Part VI of subchapter B of chap-
16 ter 1 is amended by inserting after section 179B the fol-
17 lowing new section:

18 **“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.**

19 “(a) TREATMENT AS EXPENSES.—A taxpayer may
20 elect to treat the cost of any qualified refinery property
21 as an expense which is not chargeable to capital account.
22 Any cost so treated shall be allowed as a deduction for
23 the taxable year in which the qualified refinery is placed
24 in service.

25 “(b) ELECTION.—

1 “(1) IN GENERAL.—An election under this sec-
2 tion for any taxable year shall be made on the tax-
3 payer’s return of the tax imposed by this chapter for
4 the taxable year. Such election shall be made in such
5 manner as the Secretary may by regulations pre-
6 scribe.

7 “(2) ELECTION IRREVOCABLE.—Any election
8 made under this section may not be revoked except
9 with the consent of the Secretary.

10 “(c) QUALIFIED REFINERY PROPERTY.—The term
11 ‘qualified refinery property’ means any refinery or portion
12 of a refinery—

13 “(1) the original use of which commences with
14 the taxpayer,

15 “(2) the construction of which—

16 “(A) except as provided in subparagraph
17 (B), is subject to a binding construction con-
18 tract entered into after June 14, 2005, and be-
19 fore January 1, 2008, but only if there was no
20 written binding construction contract entered
21 into on or before June 14, 2005, or

22 “(B) in the case of self-constructed prop-
23 erty, began after June 14, 2005,

1 “(3) which is placed in service by the taxpayer
2 after the date of the enactment of this section and
3 before January 1, 2012,

4 “(4) in the case of any portion of a refinery,
5 which meets the requirements of subsection (d), and

6 “(5) which meets all applicable environmental
7 laws in effect on the date such refinery or portion
8 thereof was placed in service.

9 A waiver under the Clean Air Act shall not be taken into
10 account in determining whether the requirements of para-
11 graph (5) are met.

12 “(d) PRODUCTION CAPACITY.—The requirements of
13 this subsection are met if the portion of the refinery—

14 “(1) increases the rated capacity of the existing
15 refinery by 5 percent or more over the capacity of
16 such refinery as reported by the Energy Information
17 Agency on January 1, 2005, or

18 “(2) enables the existing refinery to process
19 qualified fuels (as defined in section 29(c)) at a rate
20 which is equal to or greater than 25 percent of the
21 total throughput of such refinery on an average daily
22 basis.

23 “(e) ELECTION TO ALLOCATE DEDUCTION TO COOP-
24 ERATIVE OWNER.—If—

1 “(1) a taxpayer to which subsection (a) applies
2 is an organization to which part I of subchapter T
3 applies, and

4 “(2) one or more persons directly holding an
5 ownership interest in the taxpayer are organizations
6 to which part I of subchapter T apply,
7 the taxpayer may elect to allocate all or a portion of the
8 deduction allowable under subsection (a) to such persons.
9 Such allocation shall be equal to the person’s ratable share
10 of the total amount allocated, determined on the basis of
11 the person’s ownership interest in the taxpayer. The tax-
12 able income of the taxpayer shall not be reduced under
13 section 1382 by reason of any amount to which the pre-
14 ceding sentence applies.

15 “(f) INELIGIBLE REFINERIES.—No deduction shall
16 be allowed under subsection (a) for any qualified refinery
17 property—

18 “(1) the primary purpose of which is for use as
19 a topping plant, asphalt plant, lube oil facility, crude
20 or product terminal, or blending facility, or

21 “(2) which is built solely to comply with Feder-
22 ally mandated projects or consent decrees.

23 “(g) REPORTING.—No deduction shall be allowed
24 under subsection (a) to any taxpayer for any taxable year
25 unless such taxpayer files with the Secretary a report con-

1 taining such information with respect to the operation of
2 the refineries of the taxpayer as the Secretary shall re-
3 quire.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 1245(a) is amended by inserting
6 “179C,” after “179B,” both places it appears in
7 paragraphs (2)(C) and (3)(C).

8 (2) Section 263(a)(1) is amended by striking
9 “or” at the end of subparagraph (H), by striking
10 the period at the end of subparagraph (I) and in-
11 sserting “, or”, and by inserting after subparagraph
12 (I) the following new subparagraph:

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

15 (3) Section 312(k)(3)(B) is amended by strik-
16 ing “179 179A, or 179B” each place it appears in
17 the heading and text and inserting “179, 179A,
18 179B, or 179C”.

19 (4) The table of sections for part VI of sub-
20 chapter B of chapter 1 is amended by inserting after
21 the item relating to section 179B the following new
22 item:

“Sec. 179C. Election to expense certain refineries.”.

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

1 **SEC. 1513. PASS THROUGH TO PATRONS OF DEDUCTION**
2 **FOR CAPITAL COSTS INCURRED BY SMALL**
3 **REFINER COOPERATIVES IN COMPLYING**
4 **WITH ENVIRONMENTAL PROTECTION AGEN-**
5 **CY SULFUR REGULATIONS .**

6 (a) IN GENERAL.—Section 179B (relating to deduc-
7 tion for capital costs incurred in complying with Environ-
8 mental Protection Agency sulfur regulations) is amended
9 by adding at the end the following new subsection:

10 “(e) ELECTION TO ALLOCATE DEDUCTION TO COOP-
11 ERATIVE OWNER.—If—

12 “(1) a small business refiner to which sub-
13 section (a) applies is an organization to which part
14 I of subchapter T applies, and

15 “(2) one or more persons directly holding an
16 ownership interest in the refiner are organizations to
17 which part I of subchapter T apply,

18 the refiner may elect to allocate all or a portion of the
19 deduction allowable under subsection (a) to such persons.
20 Such allocation shall be equal to the person’s ratable share
21 of the total amount allocated, determined on the basis of
22 the person’s ownership interest in the taxpayer. The tax-
23 able income of the refiner shall not be reduced under sec-
24 tion 1382 by reason of any amount to which the preceding
25 sentence applies.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect as if included in the amend-
3 ment made by section 338(a) of the American Jobs Cre-
4 ation Act of 2004.

5 **SEC. 1514. MODIFICATIONS TO ENHANCED OIL RECOVERY**
6 **CREDIT.**

7 (a) ENHANCED CREDIT FOR CARBON DIOXIDE IN-
8 JECTIONS.—Section 43 is amended by adding at the end
9 the following new subsection:

10 “(f) ENHANCED CREDIT FOR PROJECTS USING
11 QUALIFIED CARBON DIOXIDE.—

12 “(1) IN GENERAL.—In the case of any qualified
13 enhanced oil recovery project described in paragraph
14 (2), subsection (a) shall be applied by substituting
15 ‘20 percent’ for ‘15 percent’.

16 “(2) SPECIFIED QUALIFIED ENHANCED OIL RE-
17 COVERY PROJECT.—

18 “(A) IN GENERAL.—A qualified enhanced
19 oil recovery project is described in this para-
20 graph if—

21 “(i) the project begins or is substan-
22 tially expanded after December 31, 2005,
23 and

1 “(ii) the project uses qualified carbon
2 dioxide in an oil recovery method which in-
3 volves flooding or injection.

4 “(B) QUALIFIED CARBON DIOXIDE.—For
5 purposes of this subsection, the term ‘qualified
6 carbon dioxide’ means carbon dioxide that is—

7 “(i) from an industrial source, or

8 “(ii) separated from natural gas and
9 natural gas liquids at a natural gas proc-
10 essing plant.

11 “(3) TERMINATION.—This subsection shall not
12 apply to costs paid or incurred for any qualified en-
13 hanced oil recovery project after December 31,
14 2009.”.

15 (b) DEEP GAS WELL PROJECTS.—Section 43(c) is
16 amended by adding at the end the following new para-
17 graph:

18 “(6) APPLICATION OF SECTION TO QUALIFIED
19 DEEP GAS WELL PROJECTS.—

20 “(A) IN GENERAL.—For purposes of this
21 section, the taxpayer’s qualified deep gas well
22 project costs for any taxable year shall be treat-
23 ed in the same manner as if they were qualified
24 enhanced oil recovery costs.

1 “(B) QUALIFIED DEEP GAS WELL PROJECT
2 COSTS.—For purposes of this paragraph, the
3 term ‘qualified deep gas well project costs’ shall
4 be the costs determined under paragraph (1) by
5 substituting ‘qualified deep gas well project’ for
6 ‘qualified enhanced oil recovery project’ each
7 place it appears.

8 “(C) QUALIFIED DEEP GAS WELL
9 PROJECT.—For purposes of this paragraph, the
10 term ‘qualified deep gas well project’ means any
11 project—

12 “(i) which involves the production of
13 natural gas from onshore formations deep-
14 er than 20,000 feet, and

15 “(ii) which is located in the United
16 States.

17 “(D) TERMINATION.—This paragraph
18 shall not apply to qualified deep gas well project
19 costs paid or incurred after December 31,
20 2009.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to costs paid or incurred in taxable
23 years ending after December 31, 2005.

1 **SEC. 1515. NATURAL GAS DISTRIBUTION LINES TREATED**
2 **AS 15-YEAR PROPERTY.**

3 (a) **IN GENERAL.**—Section 168(e)(3)(E) (defining
4 15-year property) is amended by striking “and” at the end
5 of clause (v), by striking the period at the end of clause
6 (vi) and by inserting “, and”, and by adding at the end
7 the following new clause:

8 “(vii) any natural gas distribution line
9 the original use of which commences with
10 the taxpayer and which is placed in service
11 before January 1, 2008.”.

12 (b) **ALTERNATIVE SYSTEM.**—The table contained in
13 section 168(g)(3)(B) (relating to special rule for certain
14 property assigned to classes) is amended by adding after
15 the item relating to subparagraph (E)(vi) the following
16 new item:

“(E)(vii) 35”.

17 (c) **EFFECTIVE DATE.**—

18 (1) **IN GENERAL.**—The amendments made by
19 this section shall apply to property placed in service
20 after the date of the enactment of this Act.

21 (2) **EXCEPTION.**—The amendments made by
22 this section shall not apply to any property with re-
23 spect to which the taxpayer or a related party has
24 entered into a binding contract for the construction
25 thereof on or before June 14, 2005, or, in the case

1 of self-constructed property, has started construction
2 on or before such date.

3 **Subtitle C—Conservation and**
4 **Energy Efficiency Provisions**

5 **SEC. 1521. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
6 **DEDUCTION.**

7 (a) IN GENERAL.—Part VI of subchapter B of chap-
8 ter 1 (relating to itemized deductions for individuals and
9 corporations), as amended by this Act, is amended by in-
10 serting after section 179C the following new section:

11 **“SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
12 **DEDUCTION.**

13 “(a) IN GENERAL.—There shall be allowed as a de-
14 duction an amount equal to the cost of energy efficient
15 commercial building property placed in service during the
16 taxable year.

17 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The de-
18 duction under subsection (a) with respect to any building
19 for any taxable year shall not exceed the excess (if any)
20 of—

21 “(1) the product of—

22 “(A) \$2.25, and

23 “(B) the square footage of the building,

24 over

1 “(2) the aggregate amount of the deductions
2 under subsection (a) with respect to the building for
3 all prior taxable years.

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

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

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

11 “(B) which is installed on or in any build-
12 ing which is—

13 “(i) located in the United States, and

14 “(ii) within the scope of Standard
15 90.1-2001,

16 “(C) which is installed as part of—

17 “(i) the interior lighting systems,

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

20 “(iii) the building envelope, and

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

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

6 “(2) STANDARD 90.1–2001.—The term ‘Stand-
7 ard 90.1–2001’ means Standard 90.1–2001 of the
8 American Society of Heating, Refrigerating, and Air
9 Conditioning Engineers and the Illuminating Engi-
10 neering Society of North America (as in effect on
11 April 2, 2003).

12 “(d) SPECIAL RULES.—

13 “(1) PARTIAL ALLOWANCE.—

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

16 “(i) the requirement of subsection
17 (c)(1)(D) is not met, but

18 “(ii) there is a certification in accord-
19 ance with paragraph (6) that any system
20 referred to in subsection (c)(1)(C) satisfies
21 the energy-savings targets established by
22 the Secretary under subparagraph (B)
23 with respect to such system,

24 then the requirement of subsection (c)(1)(D)
25 shall be treated as met with respect to such sys-

1 tem, and the deduction under subsection (a)
2 shall be allowed with respect to energy efficient
3 commercial building property installed as part
4 of such system and as part of a plan to meet
5 such targets, except that subsection (b) shall be
6 applied to such property by substituting ‘\$.75’
7 for ‘\$2.25’.

8 “(B) REGULATIONS.—The Secretary, after
9 consultation with the Secretary of Energy, shall
10 establish a target for each system described in
11 subsection (c)(1)(C) which, if such targets were
12 met for all such systems, the building would
13 meet the requirements of subsection (c)(1)(D).

14 “(2) METHODS OF CALCULATION.—The Sec-
15 retary, after consultation with the Secretary of En-
16 ergy, shall promulgate regulations which describe in
17 detail methods for calculating and verifying energy
18 and power consumption and cost, based on the pro-
19 visions of the 2005 California Nonresidential Alter-
20 native Calculation Method Approval Manual.

21 “(3) COMPUTER SOFTWARE.—

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

1 “(B) QUALIFIED COMPUTER SOFTWARE.—

2 For purposes of this paragraph, the term

3 ‘qualified computer software’ means software—

4 “(i) for which the software designer

5 has certified that the software meets all

6 procedures and detailed methods for calcu-

7 lating energy and power consumption and

8 costs as required by the Secretary,

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

10 quired to be filed by the Secretary in con-

11 nection with energy efficiency of property

12 and the deduction allowed under this sec-

13 tion, and

14 “(iii) which provides a notice form

15 which documents the energy efficiency fea-

16 tures of the building and its projected an-

17 nual energy costs.

18 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC

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

20 cial building property installed on or in property

21 owned by a Federal, State, or local government or

22 a political subdivision thereof, the Secretary shall

23 promulgate a regulation to allow the allocation of

24 the deduction to the person primarily responsible for

25 designing the property in lieu of the owner of such

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

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

9 “(6) CERTIFICATION.—

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

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

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

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

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

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

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

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

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

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

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

9 “(i) 50, and

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

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

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

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

7 “(g) COORDINATION WITH OTHER TAX BENE-
8 FITS.—In any case in which a deduction under section 200
9 or a credit under section 25C has been allowed with re-
10 spect to property in connection with a building for which
11 a deduction is allowable under subsection (a)—

12 “(1) the annual energy and power costs of the
13 reference building referred to in subsection (c)(1)(D)
14 shall be determined assuming such reference build-
15 ing contains the property for which such deduction
16 or credit has been allowed, and

17 “(2) any cost of such property taken into ac-
18 count under such sections shall not be taken into ac-
19 count under this section.

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

22 “(1) to take into account new technologies re-
23 garding energy efficiency and renewable energy for
24 purposes of determining energy efficiency and sav-
25 ings under this section, and

1 “(2) to provide for a recapture of the deduction
2 allowed under this section if the plan described in
3 subsection (c)(1)(D) or (d)(1)(A) is not fully imple-
4 mented.

5 “(i) TERMINATION.—This section shall not apply
6 with respect to property placed in service after December
7 31, 2009.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 1016(a) is amended by striking
10 “and” at the end of paragraph (30), by striking the
11 period at the end of paragraph (31) and inserting “,
12 and”, and by adding at the end the following new
13 paragraph:

14 “(32) to the extent provided in section
15 179D(e).”.

16 (2) Section 1245(a), as amended by this Act, is
17 amended by inserting “179D,” after “179C,” both
18 places it appears in paragraphs (2)(C) and (3)(C).

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

22 (4) Section 263(a)(1), as amended by this Act,
23 is amended by striking “or” at the end of subpara-
24 graph (I), by striking the period at the end of sub-
25 paragraph (J) and inserting “, or”, and by inserting

1 after subparagraph (J) the following new subpara-
2 graph:

3 “(K) expenditures for which a deduction is
4 allowed under section 179D.”.

5 (5) Section 312(k)(3)(B), as amended by this
6 Act, is amended by striking “179, 179A, 179B, or
7 179C” each place it appears in the heading and text
8 and inserting “179, 179A, 179B, 179C, or 179D”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for part VI of subchapter B of chapter 1, as amended by
11 this Act, is amended by inserting after section 179C the
12 following new item:

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

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

17 **SEC. 1522. CREDIT FOR CONSTRUCTION OF NEW ENERGY**
18 **EFFICIENT HOMES.**

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

23 **“SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.**

24 **“(a) ALLOWANCE OF CREDIT.—**

1 “(1) IN GENERAL.—For purposes of section 38,
2 in the case of an eligible contractor, the new energy
3 efficient home credit for the taxable year is the ap-
4 plicable amount for each qualified new energy effi-
5 cient home which is—

6 “(A) constructed by the eligible contractor,
7 and

8 “(B) acquired by a person from such eligi-
9 ble contractor for use as a residence during the
10 taxable year.

11 “(2) APPLICABLE AMOUNT.—For purposes of
12 paragraph (1), the applicable amount is an amount
13 equal to—

14 “(i) in the case of a dwelling unit de-
15 scribed in paragraph (1) or (3) of sub-
16 section (c), \$1,000, and

17 “(ii) in the case of a dwelling unit de-
18 scribed in paragraph (2) or (4) of sub-
19 section (c), \$2,000.

20 “(b) DEFINITIONS.—For purposes of this section—

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

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

1 “(B) in the case of a qualified new energy
2 efficient home which is a manufactured home,
3 the manufactured home producer of such home.
4 If more than 1 person is described in subparagraph
5 (A) or (B) with respect to any qualified new energy
6 efficient home, such term means the person des-
7 ignated as such by the owner of such home.

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

11 “(A) located in the United States,

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

15 “(C) which meets the energy saving re-
16 quirements of subsection (c).

17 “(3) CONSTRUCTION.—The term ‘construction’
18 includes substantial reconstruction and rehabilita-
19 tion.

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

1 “(c) ENERGY SAVING REQUIREMENTS.—A dwelling
2 unit meets the energy saving requirements of this sub-
3 section if such unit is—

4 “(1) certified—

5 “(A) to have a level of annual heating and
6 cooling energy consumption which is at least 30
7 percent below the annual level of heating and
8 cooling energy consumption of a comparable
9 dwelling unit—

10 “(i) which is constructed in accord-
11 ance with the standards of chapter 4 of the
12 2003 International Energy Conservation
13 Code, as such Code (including supple-
14 ments) is in effect on the date of the en-
15 actment of this section, and

16 “(ii) for which the heating and cooling
17 equipment efficiencies correspond to the
18 minimum allowed under the regulations es-
19 tablished by the Department of Energy
20 pursuant to the National Appliance Energy
21 Conservation Act of 1987 and in effect at
22 the time of construction, and

23 “(B) to have building envelope component
24 improvements account for at least $\frac{1}{3}$ of such
25 30 percent,

1 “(2) certified—

2 “(A) to have a level of annual heating and
3 cooling energy consumption which is at least 50
4 percent below such annual level, and

5 “(B) to have building envelope component
6 improvements account for at least $\frac{1}{5}$ of such
7 50 percent,

8 “(3) a manufactured home which conforms to
9 Federal Manufactured Home Construction and Safe-
10 ty Standards (section 3280 of title 24, Code of Fed-
11 eral Regulations) and which—

12 “(A) meets the requirements of clause (i),
13 or

14 “(B) meets the requirements established
15 by the Administrator of the Environmental Pro-
16 tection Agency under the Energy Star Labeled
17 Homes program, or

18 “(4) a manufactured home which conforms to
19 Federal Manufactured Home Construction and Safe-
20 ty Standards (section 3280 of title 24, Code of Fed-
21 eral Regulations) and which meets the requirements
22 of clause (ii).

23 “(d) CERTIFICATION.—

24 “(1) METHOD OF CERTIFICATION.—A certifi-
25 cation described in paragraphs (1) and (2) of sub-

1 section (c) shall be made in accordance with guid-
2 ance prescribed by the Secretary, after consultation
3 with the Secretary of Energy. Such guidance shall
4 specify procedures and methods for calculating en-
5 ergy and cost savings.

6 “(2) FORM.—Any certification described in sub-
7 section (c) shall be made in writing in a manner
8 which specifies in readily verifiable fashion the en-
9 ergy efficient building envelope components and en-
10 ergy efficient heating or cooling equipment installed
11 and their respective rated energy efficiency perform-
12 ance.

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

19 “(f) COORDINATION WITH OTHER CREDITS AND DE-
20 Ductions.—

21 “(1) SPECIAL RULE WITH RESPECT TO BUILD-
22 INGS WITH ENERGY EFFICIENT PROPERTY.—In the
23 case of property which is described in section 200
24 which is installed in connection with a dwelling unit,
25 the level of annual heating and cooling energy con-

1 sumption of the comparable dwelling unit referred to
2 in paragraphs (1) and (2) of subsection (c) shall be
3 determined assuming such comparable dwelling unit
4 contains the property for which such deduction or
5 credit has been allowed.

6 “(2) COORDINATION WITH INVESTMENT CRED-
7 IT.—For purposes of this section, expenditures
8 taken into account under section 47 or 48(a) shall
9 not be taken into account under this section.

10 “(g) APPLICATION OF SECTION.—

11 “(1) 50 PERCENT HOMES.—In the case of any
12 dwelling unit described in paragraph (2) or (4) of
13 subsection (c), subsection (a) shall apply to qualified
14 new energy efficient homes acquired during the pe-
15 riod beginning on the date of the enactment of this
16 section and ending on December 31, 2009.

17 “(2) 30 PERCENT HOMES.—In the case of any
18 dwelling unit described in paragraph (1) or (3) of
19 subsection (c), subsection (a) shall apply to qualified
20 new energy efficient homes acquired during the pe-
21 riod beginning on the date of the enactment of this
22 section and ending on December 31, 2007.”.

23 (b) CREDIT MADE PART OF GENERAL BUSINESS
24 CREDIT.—Section 38(b) (relating to current year business
25 credit), as amended by this Act, is amended by striking

1 “plus” at the end of paragraph (19), by striking the period
2 at the end of paragraph (20) and inserting “, plus”, and
3 by adding at the end the following new paragraph:

4 “(21) the new energy efficient home credit de-
5 termined under section 45K(a).”.

6 (c) BASIS ADJUSTMENT.—Subsection (a) of section
7 1016, as amended by this Act, is amended by striking
8 “and” at the end of paragraph (31), by striking the period
9 at the end of paragraph (32) and inserting “, and”, and
10 by adding at the end the following new paragraph:

11 “(33) to the extent provided in section 45K(e),
12 in the case of amounts with respect to which a credit
13 has been allowed under section 45K.”.

14 (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS
15 CREDITS.—Section 196(c) (defining qualified business
16 credits) is amended by striking “and” at the end of para-
17 graph (11), by striking the period at the end of paragraph
18 (12) and inserting “, and”, and by adding after paragraph
19 (12) the following new paragraph:

20 “(13) the new energy efficient home credit de-
21 termined under section 45K(a).”.

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

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

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

4 **SEC. 1523. DEDUCTION FOR BUSINESS ENERGY PROPERTY.**

5 (a) IN GENERAL.—Part VI of subchapter B of chap-
6 ter 1 is amended by adding at the end the following new
7 section:

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

9 “(a) IN GENERAL.—There shall be allowed as a de-
10 duction for the taxable year an amount equal to the great-
11 er of—

12 “(1) the amount determined under subsection
13 (b) for each energy property of the taxpayer placed
14 in service during such taxable year, or

15 “(2) the energy efficient residential rental
16 building property deduction determined under sub-
17 section (e).

18 “(b) AMOUNT FOR ENERGY PROPERTY.—The
19 amount determined under this subsection for the taxable
20 year shall be—

21 “(1) \$150 for any advanced main air circu-
22 lating fan,

23 “(2) \$450 for any qualified natural gas, pro-
24 pane, or oil furnace or hot water boiler, and

1 “(2) \$900 for any energy efficient building
2 property.

3 “(c) ENERGY PROPERTY DEFINED.—

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

6 “(A) which is—

7 “(i) energy-efficient building property,

8 “(ii) a qualified natural gas, propane,
9 or oil furnace or hot water boiler, or

10 “(iii) an advanced main air circulating
11 fan,

12 “(B)(i) the construction, reconstruction, or
13 erection of which is completed by the taxpayer,
14 or

15 “(ii) which is acquired by the taxpayer if
16 the original use of such property commences
17 with the taxpayer,

18 “(C) with respect to which depreciation (or
19 amortization in lieu of depreciation) is allow-
20 able, and

21 “(D) which meets the performance and
22 quality standards, and the certification require-
23 ments (if any), which—

24 “(i) have been prescribed by the Sec-
25 retary by regulations (after consultation

1 with the Secretary of Energy or the Ad-
2 ministrator of the Environmental Protec-
3 tion Agency, as appropriate),

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

7 “(I) require measurements to be
8 based on published data which is test-
9 ed by manufacturers at 95 degrees
10 Fahrenheit, and

11 “(II) may be based on the cer-
12 tified data of the Air Conditioning
13 and Refrigeration Institute that are
14 prepared in partnership with the Con-
15 sortium for Energy Efficiency,

16 “(iii) in the case of geothermal heat
17 pumps—

18 “(I) shall be based on testing
19 under the conditions of ARI/ISO
20 Standard 13256–1 for Water Source
21 Heat Pumps or ARI 870 for Direct
22 Expansion GeoExchange Heat Pumps
23 (DX), as appropriate, and

24 “(II) shall include evidence that
25 water heating services have been pro-

1 vided through a desuperheater or inte-
2 grated water heating system con-
3 nected to the storage water heater
4 tank, and

5 “(iv) are in effect at the time of the
6 acquisition of the property, or at the time
7 of the completion of the construction, re-
8 construction, or erection of the property,
9 as the case may be.

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

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

17 “(1) ENERGY-EFFICIENT BUILDING PROP-
18 ERTY.—The term ‘energy-efficient building property’
19 means—

20 “(A) an electric heat pump water heater
21 which yields an energy factor of at least 2.0 in
22 the standard Department of Energy test proce-
23 dure,

24 “(B) an electric heat pump which has a
25 heating seasonal performance factor (HSPF) of

1 at least 9, a seasonal energy efficiency ratio
2 (SEER) of at least 15, and an energy efficiency
3 ratio (EER) of at least 13,

4 “(C) a geothermal heat pump which—

5 “(i) in the case of a closed loop prod-
6 uct, has an energy efficiency ratio (EER)
7 of at least 14.1 and a heating coefficient of
8 performance (COP) of at least 3.3,

9 “(ii) in the case of an open loop prod-
10 uct, has an energy efficiency ratio (EER)
11 of at least 16.2 and a heating coefficient of
12 performance (COP) of at least 3.6, and

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

18 “(D) a central air conditioner which has a
19 seasonal energy efficiency ratio (SEER) of at
20 least 15 and an energy efficiency ratio (EER)
21 of at least 13, and

22 “(E) a natural gas, propane, or oil water
23 heater which has an energy factor of at least
24 0.80.

1 “(2) QUALIFIED NATURAL GAS, PROPANE, OR
2 OIL FURNACE OR HOT WATER BOILER.—The term
3 ‘qualified natural gas, propane, or oil furnace or hot
4 water boiler’ means a natural gas, propane, or oil
5 furnace or hot water boiler which achieves an annual
6 fuel utilization efficiency rate of not less than 95.

7 “(3) ADVANCED MAIN AIR CIRCULATING FAN.—
8 The term ‘advanced main air circulating fan’ means
9 a fan used in a natural gas, propane, or oil furnace
10 originally placed in service by the taxpayer during
11 the taxable year and which has an annual electricity
12 use of no more than 2 percent of the total annual
13 energy use of the furnace (as determined in the
14 standard Department of Energy test procedures).

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

17 “(1) DEDUCTION ALLOWED.—For purposes of
18 subsection (a)—

19 “(A) IN GENERAL.—The energy efficient
20 residential rental building property deduction
21 determined under this subsection is an amount
22 equal to energy efficient residential rental build-
23 ing property expenditures made by a taxpayer
24 for the taxable year.

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

6 “(i) \$6,000 in the case of a percent-
7 age reduction of 50 percent or more as de-
8 termined under paragraph (2)(B)(ii), and

9 “(ii) \$12,000 times the percentage re-
10 duction in the case of a percentage reduc-
11 tion which is less than 50 percent as deter-
12 mined under paragraph (2)(B)(ii).

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

18 “(2) ENERGY EFFICIENT RESIDENTIAL RENTAL
19 BUILDING PROPERTY EXPENDITURES.—For pur-
20 poses of this subsection—

21 “(A) IN GENERAL.—The term ‘energy effi-
22 cient residential rental building property ex-
23 penditures’ means an amount paid or incurred
24 for energy efficient residential rental building
25 property—

1 “(i) in connection with construction,
2 reconstruction, erection, or rehabilitation
3 of residential rental property (as defined in
4 section 168(e)(2)(A)) other than property
5 for which a deduction is allowable under
6 section 179D,

7 “(ii) for which depreciation is allow-
8 able under section 167,

9 “(iii) which is located in the United
10 States, and

11 “(iv) the construction, reconstruction,
12 erection, or rehabilitation of which is com-
13 pleted by the taxpayer.

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

17 “(B) ENERGY EFFICIENT RESIDENTIAL
18 RENTAL BUILDING PROPERTY.—

19 “(i) IN GENERAL.—The term ‘energy
20 efficient residential rental building prop-
21 erty’ means any property which, individ-
22 ually or in combination with other prop-
23 erty, reduces total annual energy and
24 power costs with respect to heating and

1 cooling of the building by 20 percent or
2 more when compared to—

3 “(I) in the case of an existing
4 building, the original condition of the
5 building, and

6 “(II) in the case of a new build-
7 ing, the standards for residential
8 buildings of the same type which are
9 built in compliance with the applicable
10 building construction codes.

11 “(ii) PROCEDURES.—

12 “(I) IN GENERAL.—For purposes
13 of clause (i), energy usage and costs
14 shall be demonstrated by perform-
15 ance-based compliance in accordance
16 with the requirements of clause (iv).

17 “(II) COMPUTER SOFTWARE.—
18 Computer software shall be used in
19 support of performance-based compli-
20 ance under subclause (I) and such
21 software shall meet all of the proce-
22 dures and methods for calculating en-
23 ergy savings reductions which are pro-
24 mulgated by the Secretary of Energy.
25 Such regulations on the specifications

1 for software and verification protocols
2 shall be based on the 2005 California
3 Residential Alternative Calculation
4 Method Approval Manual.

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

24 “(IV) APPROVAL OF SOFTWARE
25 SUBMISSIONS.—The Secretary shall

1 approve software submissions which
2 comply with the requirements of sub-
3 clause (II).

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

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

25 “(iv) COMPLIANCE.—

1 “(I) IN GENERAL.—The Sec-
2 retary, after consultation with the
3 Secretary of Energy, shall establish
4 requirements for certification and
5 compliance procedures after exam-
6 ining the requirements for energy con-
7 sultants and home energy ratings pro-
8 viders specified by the Mortgage In-
9 dustry National Home Energy Rating
10 Standards.

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

24 “(C) ALLOCATION OF DEDUCTION FOR
25 PUBLIC PROPERTY.—In the case of energy effi-

1 cient residential rental building property which
2 is property owned by a Federal, State, or local
3 government or a political subdivision thereof,
4 the Secretary shall promulgate a regulation to
5 allow the allocation of the deduction to the per-
6 son primarily responsible for designing the im-
7 provements to the property in lieu of the owner
8 of such property. Such person shall be treated
9 as the taxpayer for purposes of this subsection.

10 “(f) BASIS REDUCTION.—For purposes of this sub-
11 title, if a deduction is allowed under this section with re-
12 spect to any property, the basis of such property shall be
13 reduced by the amount of the deduction so allowed.

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

19 “(h) TERMINATION.—This section shall not apply
20 with respect to any property placed in service after Decem-
21 ber 31, 2008.”.

22 (b) CONFORMING AMENDMENT.—Section 1016(a), as
23 amended by this Act, is amended by striking “and” at the
24 end of paragraph (32), by striking the period at the end

1 of paragraph (33) and inserting “, and”, and by inserting
2 the following new paragraph:

3 “(34) for amounts allowed as a deduction under
4 section 200(a).”.

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

“Sec. 200. Energy property deduction.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to property placed in service after
10 the date of the enactment of this Act.

11 **SEC. 1524. CREDIT FOR CERTAIN NONBUSINESS ENERGY**
12 **PROPERTY.**

13 (a) IN GENERAL.—Subpart A of part IV of sub-
14 chapter A of chapter 1 (relating to nonrefundable personal
15 credits) is amended by inserting after section 25B the fol-
16 lowing new section:

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

18 **“(a) ALLOWANCE OF CREDIT.—**

19 **“(1) IN GENERAL.—**In the case of an indi-
20 vidual, there shall be allowed as a credit against the
21 tax imposed by this chapter for the taxable year an
22 amount equal to the greater of—

23 **“(A)** the amount of residential energy
24 property expenditures made by the taxpayer
25 during such taxable year, or

1 “(B) the amount specified in paragraph
2 (2) for any building owned by the taxpayer
3 which is certified as a highly energy-efficient
4 principal residence during such taxable year.

5 “(2) CREDIT AMOUNT.—For purposes of para-
6 graph (1)(B), the credit amount with respect to a
7 highly energy-efficient principal residence is—

8 “(A) \$2,000 in the case of a percentage re-
9 duction of 50 percent or more as determined
10 under subsection (c)(4)(C), and

11 “(B) \$4,000 times the percentage reduc-
12 tion in the case of a percentage reduction which
13 is 20 percent or more but less than 50 percent
14 as determined under subsection (c)(4)(C).

15 “(b) LIMITATION.—The amount of the credit allowed
16 under this section by reason of subsection (a)(1)(A) shall
17 not exceed—

18 “(1) \$50 for any advanced main air circulating
19 fan,

20 “(2) \$150 for any qualified natural gas, pro-
21 pane, or oil furnace or hot water boiler, and

22 “(2) \$300 for any item of energy efficient prop-
23 erty.

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

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

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

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

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

11 “(2) QUALIFIED ENERGY PROPERTY.—

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

14 “(i) energy-efficient building property,

15 “(ii) a qualified natural gas, propane,
16 or oil furnace or hot water boiler, or

17 “(iii) an advanced main air circulating
18 fan.

19 “(B) REQUIRED STANDARDS.—Property
20 described under subparagraph (A) shall meet
21 the performance and quality standards and cer-
22 tification standards of section 200(c)(1)(D).

23 “(3) ENERGY-EFFICIENT BUILDING PROPERTY;
24 QUALIFIED NATURAL GAS, PROPANE, OR OIL FUR-
25 NACE OR HOT WATER BOILER; ADVANCED MAIN AIR

1 CIRCULATING FAN.—The terms ‘energy-efficient
2 building property’, ‘qualified natural gas, propane,
3 or oil furnace or hot water boiler’, and ‘advanced
4 main air circulating fan’ have the meanings given
5 such terms in section 200.

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

8 “(A) IN GENERAL.—A building is a highly
9 energy-efficient principal residence if—

10 “(i) such building is located in the
11 United States,

12 “(ii) the building is used as a prin-
13 cipal residence,

14 “(iii) in the case of a new building,
15 the building is not acquired from an eligi-
16 ble contractor (within the meaning of sec-
17 tion 45K(b)(1)), and

18 “(iv) the building is certified in ac-
19 cordance with subparagraph (D) as meet-
20 ing the requirements of subparagraph (C).

21 “(B) PRINCIPAL RESIDENCE.—

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

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

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

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

16 “(C) REQUIREMENTS.—The requirements
17 of this subparagraph are met if the projected
18 heating and cooling energy usage of the build-
19 ing, measured in terms of average annual en-
20 ergy cost to taxpayer, is reduced by 20 percent
21 or more in comparison to—

22 “(i) in the case of an existing build-
23 ing, the original condition of the building,
24 and

1 “(ii) in the case of a new building, a
2 comparable building—

3 “(I) which is constructed in ac-
4 cordance with the standards of chap-
5 ter 4 of the 2003 International En-
6 ergy Conservation Code, as such Code
7 (including supplements) is in effect on
8 the date of the enactment of this sec-
9 tion, and

10 “(II) for which the heating and
11 cooling equipment efficiencies cor-
12 respond to the minimum allowed
13 under the regulations established by
14 the Department of Energy pursuant
15 to the National Appliance Energy
16 Conservation Act of 1987 and in ef-
17 fect at the time of construction.

18 “(D) CERTIFICATION PROCEDURES.—

19 “(i) IN GENERAL.—For purposes of
20 subparagraph (A)(iv), energy usage shall
21 be demonstrated by performance-based
22 compliance in accordance with the require-
23 ments of subsection (d)(2).

24 “(ii) COMPUTER SOFTWARE.—Com-
25 puter software shall be used in support of

1 performance-based compliance under
2 clause (i) and such software shall meet all
3 of the procedures and methods for calcu-
4 lating energy savings reductions which are
5 promulgated by the Secretary of Energy.
6 Such regulations on the specifications for
7 software and verification protocols shall be
8 based on the 2005 California Residential
9 Alternative Calculation Method Approval
10 Manual.

11 “(iii) CALCULATION REQUIRE-
12 MENTS.—In calculating tradeoffs and en-
13 ergy performance, the regulations shall
14 prescribe the costs per unit of energy and
15 power, such as kilowatt hour, kilowatt, gal-
16 lon of fuel oil, and cubic foot or Btu of
17 natural gas, which may be dependent on
18 time of usage. If a State has developed an-
19 nual energy usage and cost calculation pro-
20 cedures based on time of usage costs for
21 use in the performance standards of the
22 State’s building energy code before the ef-
23 fective date of this section, the State may
24 use those annual energy usage and cost

1 calculation procedures in lieu of those
2 adopted by the Secretary.

3 “(iv) APPROVAL OF SOFTWARE SUB-
4 MISSIONS.—The Secretary shall approve
5 software submissions which comply with
6 the calculation requirements of clause (ii).

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

13 “(d) SPECIAL RULES.—For purposes of this
14 section—

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

25 “(2) COMPLIANCE.—

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

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

20 “(3) DOLLAR AMOUNTS IN CASE OF JOINT OC-
21 CUPANCY.—In the case of any dwelling unit which is
22 jointly occupied and used during any calendar year
23 as a principal residence by 2 or more individuals, the
24 following rules shall apply:

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

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

18 “(4) TENANT-STOCKHOLDER IN COOPERATIVE
19 HOUSING CORPORATION.—In the case of an indi-
20 vidual who is a tenant-stockholder (as defined in sec-
21 tion 216) in a cooperative housing corporation (as
22 defined in such section), such individual shall be
23 treated as having made his tenant-stockholder’s pro-
24 portionate share (as defined in section 216(b)(3)) of

1 any expenditures of such corporation and such credit
2 shall be allocated pro rata to such individual.

3 “(5) CONDOMINIUMS.—

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

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

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

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

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

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

13 “(8) YEAR CREDIT ALLOWED.—The credit
14 under subsection (a)(2) shall be allowed in the tax-
15 able year in which the percentage reduction with re-
16 spect to the principal residence is certified.

17 “(9) WHEN EXPENDITURE MADE; AMOUNT OF
18 EXPENDITURE.—

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

23 “(B) EXPENDITURES PART OF BUILDING
24 CONSTRUCTION.—In the case of an expenditure
25 in connection with the construction of a struc-

1 ture, such expenditure shall be treated as made
2 when the original use of the constructed struc-
3 ture by the taxpayer begins.

4 “(10) PROPERTY FINANCED BY SUBSIDIZED
5 ENERGY FINANCING.—

6 “(A) REDUCTION OF EXPENDITURES.—

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

14 “(ii) SUBSIDIZED ENERGY FINANC-
15 ING.—For purposes of clause (i), the term
16 ‘subsidized energy financing’ has the same
17 meaning given such term in section
18 48(a)(4)(C).

19 “(B) DOLLAR LIMITS REDUCED.—The dol-
20 lar amounts in subsection (b)(3) with respect to
21 each property purchased for such dwelling unit
22 for any taxable year of such taxpayer shall be
23 reduced proportionately by an amount equal to
24 the sum of—

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

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

13 “(C) EXCEPTION FOR STATE PROGRAMS.—
14 Subparagraphs (A) and (B) shall not apply to
15 expenditures made with respect to property for
16 which the taxpayer has received a loan, State
17 tax credit, or grant under any State energy pro-
18 gram.

19 “(11) COORDINATION WITH SECTION 25D.—In
20 any case in which a credit under section 25D has
21 been allowed with respect to property in connection
22 with a building for which a credit is allowable under
23 this section by reason of subsection (a)(1)(B)—

1 “(A) for purposes of subsection (c)(4)(C),
2 the average annual energy cost with respect to
3 heating and cooling of—

4 “(i) for purposes of subsection
5 (c)(4)(C)(i), the original condition of the
6 building, and

7 “(ii) for purposes of subsection
8 (c)(4)(C)(ii), the comparable building,
9 shall be determined assuming such building
10 contains the property for which such credit has
11 been allowed, and

12 “(B) any cost of such property taken into
13 account under such section shall not be taken
14 into account under this section.

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

21 “(f) REGULATIONS.—The Secretary shall promulgate
22 such regulations as necessary to take into account new
23 technologies regarding energy efficiency and renewable en-
24 ergy for purposes of determining energy efficiency and
25 savings under this section.

1 “(g) TERMINATION.—This section shall not apply
2 with respect to any property placed in service after Decem-
3 ber 31, 2008.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Subsection (a) of section 1016, as amended
6 by this Act, is amended by striking “and” at the end
7 of paragraph (33), by striking the period at the end
8 of paragraph (34) and inserting “, and”, and by
9 adding at the end the following new paragraph:

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

13 (2) The table of sections for subpart A of part
14 IV of subchapter A of chapter 1 is amended by in-
15 serting after the item relating to section 25B the fol-
16 lowing new item:

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

17 (c) EFFECTIVE DATES.—The amendments made by
18 this section shall apply to property placed in service after
19 December 31, 2005.

20 **SEC. 1525. ENERGY CREDIT FOR COMBINED HEAT AND**
21 **POWER SYSTEM PROPERTY.**

22 (a) IN GENERAL.—Section 48(a)(3)(A) (defining en-
23 ergy property) is by striking “or” at the end of clause
24 (i), by inserting “or” at the end of clause (ii), and by add-
25 ing at the end the following new clause:

1 “(iii) combined heat and power system
2 property,”.

3 (b) COMBINED HEAT AND POWER SYSTEM PROP-
4 ERTY.—Section 48 (relating to energy credit; reforestation
5 credit) is amended by adding at the end the following new
6 subsection:

7 “(c) COMBINED HEAT AND POWER SYSTEM PROP-
8 ERTY.—For purposes of subsection (a)(3)(A)(iii)—

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

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

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

24 “(C) which produces—

1 “(i) at least 20 percent of its total
2 useful energy in the form of thermal en-
3 ergy which is not used to produce electrical
4 or mechanical power (or combination
5 thereof), and

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

9 “(D) the energy efficiency percentage of
10 which exceeds 60 percent, and

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

13 “(2) SPECIAL RULES.—

14 “(A) ENERGY EFFICIENCY PERCENT-
15 AGE.—For purposes of this subsection, the en-
16 ergy efficiency percentage of a system is the
17 fraction—

18 “(i) the numerator of which is the
19 total useful electrical, thermal, and me-
20 chanical power produced by the system at
21 normal operating rates, and expected to be
22 consumed in its normal application, and

23 “(ii) the denominator of which is the
24 lower heating value of the fuel sources for
25 the system.

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

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

11 “(D) CERTAIN EXCEPTION NOT TO
12 APPLY.—The first sentence of the matter in
13 subsection (a)(3) which follows subparagraph
14 (D) thereof shall not apply to combined heat
15 and power system property.

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

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

20 “(B) the amount of credit determined
21 under subsection (a) with respect to such sys-
22 tem shall not exceed the amount which bears
23 the same ratio to such amount of credit (deter-
24 mined without regard to this paragraph) as the

1 energy efficiency percentage of such system
2 bears to 60 percent.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to periods after the date of the
5 enactment of this Act, in taxable years ending after such
6 date, under rules similar to the rules of section 48(m) of
7 the Internal Revenue Code of 1986 (as in effect on the
8 day before the date of the enactment of the Revenue Rec-
9 onciliation Act of 1990).

10 **SEC. 1526. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

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

15 **“SEC. 45L. ENERGY EFFICIENT APPLIANCE CREDIT.**

16 “(a) GENERAL RULE.—

17 “(1) IN GENERAL.—For purposes of section 38,
18 the energy efficient appliance credit determined
19 under this section for any taxable year is an amount
20 equal to the sum of the credit amounts determined
21 under paragraph (2) for each type of qualified en-
22 ergy efficient appliance produced by the taxpayer
23 during the calendar year ending with or within the
24 taxable year.

1 “(2) CREDIT AMOUNTS.—The credit amount
2 determined for any type of qualified energy efficient
3 appliance is—

4 “(A) the applicable amount determined
5 under subsection (b) with respect to such type,
6 multiplied by

7 “(B) the eligible production for such type.

8 “(b) APPLICABLE AMOUNT.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a)—

11 “(A) DISHWASHERS.—The applicable
12 amount is the energy savings amount in the
13 case of a dishwasher which—

14 “(i) is manufactured in calendar year
15 2006 or 2007, and

16 “(ii) meets the requirements of the
17 Energy Star program which are in effect
18 for dishwashers in 2007.

19 “(B) CLOTHES WASHERS.—The applicable
20 amount is—

21 “(i) \$50, in the case of a clothes
22 washer which—

23 “(I) is manufactured in calendar
24 year 2005, and

1 “(II) has an MEF of at least
2 1.42,

3 “(ii) \$100, in the case of a clothes
4 washer which—

5 “(I) is manufactured in calendar
6 year 2005, 2006, or 2007, and

7 “(II) meets the requirements of
8 the Energy Star program which are in
9 effect for clothes washers in 2007,
10 and

11 “(iii) the energy and water savings
12 amount, in the case of a clothes washer
13 which—

14 “(I) is manufactured in calendar
15 year 2008, 2009, or 2010, and

16 “(II) meets the requirements of
17 the Energy Star program which are in
18 effect for clothes washers in 2010.

19 “(C) REFRIGERATORS.—

20 “(i) 15 PERCENT SAVINGS.—The ap-
21 plicable amount is \$75 in the case of a re-
22 frigerator which—

23 “(I) is manufactured in calendar
24 year 2005 or 2006, and

1 “(II) consumes at least 15 per-
2 cent but not more than 20 percent
3 less kilowatt hours per year than the
4 2001 energy conservation standard.

5 “(ii) 20 PERCENT SAVINGS.—In the
6 case of a refrigerator which consumes at
7 least 20 percent but not more than 25 per-
8 cent less kilowatt hours per year than the
9 2001 energy conservation standards, the
10 applicable amount is—

11 “(I) \$125 for a refrigerator
12 which is manufactured in calendar
13 year 2005, 2006, or 2007, and

14 “(II) \$100 for a refrigerator
15 which is manufactured in calendar
16 year 2008.

17 “(iii) 25 PERCENT SAVINGS.—In the
18 case of a refrigerator which consumes at
19 least 25 percent less kilowatt hours per
20 year than the 2001 energy conservation
21 standards, the applicable amount is—

22 “(I) \$175 for a refrigerator
23 which is manufactured in calendar
24 year 2005, 2006, or 2007, and

1 “(II) \$150 for a refrigerator
2 which is manufactured in calendar
3 year 2008, 2009, or 2010.

4 “(2) ENERGY SAVINGS AMOUNT.—For purposes
5 of paragraph (1)(A)—

6 “(A) IN GENERAL.—The energy savings
7 amount is the lesser of—

8 “(i) the product of—

9 “(I) \$3, and

10 “(II) 100 multiplied by the en-
11 ergy savings percentage, or

12 “(ii) \$100.

13 “(B) ENERGY SAVINGS PERCENTAGE.—
14 For purposes of subparagraph (A), the energy
15 savings percentage is the ratio of—

16 “(i) the EF required by the Energy
17 Star program for dishwashers in 2007
18 minus the EF required by the Energy Star
19 program for dishwashers in 2005, to

20 “(ii) the EF required by the Energy
21 Star program for dishwashers in 2007.

22 “(3) ENERGY AND WATER SAVINGS AMOUNT.—
23 For purposes of paragraph (1)(B)(iii)—

24 “(A) IN GENERAL.—The energy and water
25 savings amount is the lesser of—

1 “(i) the product of—

2 “(I) \$10, and

3 “(II) 100 multiplied by the en-
4 ergy and water savings percentage, or

5 “(ii) \$200.

6 “(B) ENERGY AND WATER SAVINGS PER-
7 CENTAGE.—For purposes of subparagraph (A),
8 the energy and water savings percentage is the
9 average of the MEF savings percentage and the
10 WF savings percentage.

11 “(C) MEF SAVINGS PERCENTAGE.—For
12 purposes of this paragraph, the MEF savings
13 percentage is the ratio of—

14 “(i) the MEF required by the Energy
15 Star program for clothes washers in 2010
16 minus the MEF required by the Energy
17 Star program for clothes washers in 2007,
18 to

19 “(ii) the MEF required by the Energy
20 Star program for clothes washers in 2010.

21 “(D) WF SAVINGS PERCENTAGE.—For
22 purposes of this paragraph, the WF savings
23 percentage is the ratio of—

24 “(i) the WF required by the Energy
25 Star program for clothes washers in 2007

1 minus the WF required by the Energy
2 Star program for clothes washers in 2010,
3 to

4 “(ii) the WF required by the Energy
5 Star program for clothes washers in 2007.

6 “(c) ELIGIBLE PRODUCTION.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graphs (2) and (3), the eligible production in a cal-
9 endar year with respect to each type of energy effi-
10 cient appliance is the excess of—

11 “(A) the number of appliances of such type
12 which are produced by the taxpayer in the
13 United States during such calendar year, over

14 “(B) the average number of appliances of
15 such type which were produced by the taxpayer
16 (or any predecessor) in the United States dur-
17 ing the preceding 3-calendar year period.

18 “(2) SPECIAL RULE FOR REFRIGERATORS.—

19 The eligible production in a calendar year with re-
20 spect to each type of refrigerator described in sub-
21 section (b)(1)(C) is the excess of—

22 “(A) the number of appliances of such type
23 which are produced by the taxpayer in the
24 United States during such calendar year, over

1 “(B) 110 percent of the average number of
2 appliances of such type which were produced by
3 the taxpayer (or any predecessor) in the United
4 States during the preceding 3-calendar year pe-
5 riod.

6 “(3) SPECIAL RULE FOR 2005 PRODUCTION.—
7 For purposes of determining eligible production for
8 calendar year 2005—

9 “(A) only production after the date of en-
10 actment of this section shall be taken into ac-
11 count under paragraphs (1)(A) and (2)(A), and

12 “(B) the amount taken into account under
13 paragraphs (1)(B) and (2)(B) shall be an
14 amount which bears the same ratio to the
15 amount which would (but for this paragraph)
16 be taken into account under such paragraph
17 as—

18 “(i) the number of days in calendar
19 year 2005 after the date of enactment of
20 this section, bears to

21 “(ii) 365.

22 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
23 For purposes of this section, the types of energy efficient
24 appliances are—

1 “(1) dishwashers described in subsection
2 (b)(1)(A),

3 “(2) clothes washers described in subsection
4 (b)(1)(B)(i),

5 “(3) clothes washers described in subsection
6 (b)(1)(B)(ii),

7 “(4) clothes washers described in subsection
8 (b)(1)(B)(iii),

9 “(5) refrigerators described in subsection
10 (b)(1)(C)(i),

11 “(6) refrigerators described in subsection
12 (b)(1)(C)(ii)(I),

13 “(7) refrigerators described in subsection
14 (b)(1)(C)(ii)(II),

15 “(8) refrigerators described in subsection
16 (b)(1)(C)(iii)(I), and

17 “(9) refrigerators described in subsection
18 (b)(1)(C)(iii)(II).

19 “(e) LIMITATIONS.—

20 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

21 The aggregate amount of credit allowed under sub-
22 section (a) with respect to a taxpayer for any tax-
23 able year shall not exceed \$75,000,000 reduced by
24 the amount of the credit allowed under subsection

1 (a) to the taxpayer (or any predecessor) for all prior
2 taxable years.

3 “(2) AMOUNT ALLOWED FOR CERTAIN APPLI-
4 ANCES.—

5 “(A) IN GENERAL.—In the case of appli-
6 ances described in subparagraph (C), the aggre-
7 gate amount of the credit allowed under sub-
8 section (a) with respect to a taxpayer for any
9 taxable year shall not exceed \$20,000,000 re-
10 duced by the amount of the credit allowed
11 under subsection (a) to the taxpayer (or any
12 predecessor) for all prior taxable years with re-
13 spect to such appliances.

14 “(B) ELECTION TO INCREASE ALLOWABLE
15 CREDIT.—In the case of any taxpayer who
16 makes an election under this subparagraph—

17 “(i) subparagraph (A) shall be applied
18 by substituting ‘\$25,000,000’ for
19 ‘\$20,000,000’, and

20 “(ii) the aggregate amount of the
21 credit allowed under subsection (a) with re-
22 spect to such taxpayer for any taxable year
23 for appliances described in subparagraph
24 (C) and the additional appliances described
25 in subparagraph (D) shall not exceed

1 \$50,000,000 reduced by the amount of the
2 credit allowed under subsection (a) to the
3 taxpayer (or any predecessor) for all prior
4 taxable years with respect to such appli-
5 ances.

6 “(C) APPLIANCES DESCRIBED.—The appli-
7 ances described in this subparagraph are—

8 “(i) clothes washers described in sub-
9 section (b)(1)(B)(i), and

10 “(ii) refrigerators described in sub-
11 section (b)(1)(C)(i).

12 “(D) ADDITIONAL APPLIANCES.—The ad-
13 ditional appliances described in this subpara-
14 graph are—

15 “(i) refrigerators described in sub-
16 section (b)(1)(C)(ii)(I), and

17 “(ii) refrigerators described in sub-
18 section (b)(1)(C)(ii)(II).

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

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

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

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

8 “(A) any dishwasher described in sub-
9 section (b)(1)(A),

10 “(B) any clothes washer described in sub-
11 section (b)(1)(B), and

12 “(C) any refrigerator described in sub-
13 section (b)(1)(C).

14 “(2) DISHWASHER.—The term ‘dishwasher’
15 means a residential dishwasher subject to the energy
16 conservation standards established by the Depart-
17 ment of Energy.

18 “(3) CLOTHES WASHER.—The term ‘clothes
19 washer’ means a residential model clothes washer,
20 including a residential style coin operated washer.

21 “(4) REFRIGERATOR.—The term ‘refrigerator’
22 means a residential model automatic defrost refrig-
23 erator-freezer which has an internal volume of at
24 least 16.5 cubic feet.

1 “(5) MEF.—The term ‘MEF’ means the modi-
2 fied energy factor established by the Department of
3 Energy for compliance with the Federal energy con-
4 servation standards.

5 “(6) EF.—The term ‘EF’ means the energy
6 factor established by the Department of Energy for
7 compliance with the Federal energy conservation
8 standards.

9 “(7) WF.—The term ‘WF’ means Water Fac-
10 tor (as determined by the Secretary of Energy).

11 “(8) PRODUCED.—The term ‘produced’ in-
12 cludes manufactured.

13 “(9) 2001 ENERGY CONSERVATION STAND-
14 ARD.—The term ‘2001 energy conservation stand-
15 ard’ means the energy conservation standards pro-
16 mulgated by the Department of Energy and effective
17 July 1, 2001.

18 “(g) SPECIAL RULES.—For purposes of this
19 section—

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

23 “(2) CONTROLLED GROUP.—

24 “(A) IN GENERAL.—All persons treated as
25 a single employer under subsection (a) or (b) of

1 section 52 or subsection (m) or (o) of section
2 414 shall be treated as a single producer.

3 “(B) INCLUSION OF FOREIGN CORPORA-
4 TIONS.—For purposes of subparagraph (A), in
5 applying subsections (a) and (b) of section 52
6 to this section, section 1563 shall be applied
7 without regard to subsection (b)(2)(C) thereof.

8 “(3) VERIFICATION.—No amount shall be al-
9 lowed as a credit under subsection (a) with respect
10 to which the taxpayer has not submitted such infor-
11 mation or certification as the Secretary, in consulta-
12 tion with the Secretary of Energy, determines nec-
13 essary.”.

14 (b) CONFORMING AMENDMENT.—Section 38(b) (re-
15 lating to general business credit), as amended by this Act,
16 is amended by striking “plus” at the end of paragraph
17 (20), by striking the period at the end of paragraph (21)
18 and inserting “, plus”, and by adding at the end the fol-
19 lowing new paragraph:

20 “(22) the energy efficient appliance credit de-
21 termined under section 45L(a).”.

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

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

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to appliances produced after the
3 date of the enactment of this Act, in taxable years ending
4 after such date.

5 **SEC. 1527. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
6 **PROPERTY.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-
8 chapter A of chapter 1 (relating to nonrefundable personal
9 credits), as amended by this Act, is amended by inserting
10 after section 25C the following new section:

11 **“SEC. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

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

16 “(1) 30 percent of the qualified photovoltaic
17 property expenditures made by the taxpayer during
18 such year,

19 “(2) 30 percent of the qualified solar water
20 heating property expenditures made by the taxpayer
21 during such year,

22 “(3) 30 percent of the qualified fuel cell prop-
23 erty expenditures made by the taxpayer during such
24 year,

25 “(b) LIMITATIONS.—

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

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

5 “(B) \$500 for each 0.5 kilowatt of capac-
6 ity of property described in subsection (d)(4).

7 “(2) CERTIFICATIONS.—No credit shall be al-
8 lowed under this section for an item of property
9 unless—

10 “(A) in the case of solar water heating
11 property, such property is certified for perform-
12 ance by the non-profit Solar Rating Certifi-
13 cation Corporation or a comparable entity en-
14 dorsed by the government of the State in which
15 such property is installed, and

16 “(B) in the case of a photovoltaic property
17 or a fuel cell property such property meets ap-
18 propriate fire and electric code requirements.

19 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
20 credit allowable under subsection (a) exceeds the limita-
21 tion imposed by section 26(a) for such taxable year re-
22 duced by the sum of the credits allowable under this sub-
23 part (other than this section), such excess shall be carried
24 to the succeeding taxable year and added to the credit al-

1 lowable under subsection (a) for such succeeding taxable
2 year.

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

4 “(1) QUALIFIED SOLAR WATER HEATING PROP-
5 ERTY EXPENDITURE.—The term ‘qualified solar
6 water heating property expenditure’ means an ex-
7 penditure for property to heat water for use in a
8 dwelling unit located in the United States and used
9 as a residence by the taxpayer if at least half of the
10 energy used by such property for such purpose is de-
11 rived from the sun.

12 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
13 PENDITURE.—The term ‘qualified photovoltaic prop-
14 erty expenditure’ means an expenditure for property
15 which uses solar energy to generate electricity for
16 use in a dwelling unit located in the United States
17 and used as a residence by the taxpayer.

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

24 “(4) QUALIFIED FUEL CELL PROPERTY EX-
25 PENDITURE.—The term ‘qualified fuel cell property

1 expenditure' means an expenditure for qualified fuel
2 cell property (as defined in section 48(d)(1)) in-
3 stalled on or in connection with a dwelling unit lo-
4 cated in the United States and used as a principal
5 residence (within the meaning of section 121) by the
6 taxpayer.

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

14 “(6) SWIMMING POOLS, ETC., USED AS STOR-
15 AGE MEDIUM.—Expenditures which are properly al-
16 locable to a swimming pool, hot tub, or any other
17 energy storage medium which has a function other
18 than the function of such storage shall not be taken
19 into account for purposes of this section.

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

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

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

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

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

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

1 portionate share (as defined in section 216(b)(3)) of
2 any expenditures of such corporation.

3 “(3) CONDOMINIUMS.—

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

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

19 “(4) ALLOCATION IN CERTAIN CASES.—If less
20 than 80 percent of the use of an item is for nonbusi-
21 ness purposes, only that portion of the expenditures
22 for such item which is properly allocable to use for
23 nonbusiness purposes shall be taken into account.

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

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

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

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

14 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
15 ERGY FINANCING.—For purposes of determining the
16 amount of expenditures made by any individual with
17 respect to any dwelling unit, there shall not be taken
18 into account expenditures which are made from sub-
19 sidized energy financing (as defined in section
20 48(a)(4)(C)).

21 “(f) BASIS ADJUSTMENTS.—For purposes of this
22 subtitle, if a credit is allowed under this section for any
23 expenditure with respect to any property, the increase in
24 the basis of such property which would (but for this sub-

1 section) result from such expenditure shall be reduced by
2 the amount of the credit so allowed.

3 “(g) TERMINATION.—The credit allowed under this
4 section shall not apply to property placed in service after
5 December 31, 2009.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 1016(a), as amended by this Act, is
8 amended by striking “and” at the end of paragraph
9 (34), by striking the period at the end of paragraph
10 (35) and inserting “, and”, and by adding at the
11 end the following new paragraph:

12 “(36) to the extent provided in section 25D(f),
13 in the case of amounts with respect to which a credit
14 has been allowed under section 25D.”.

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

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

19 (c) EFFECTIVE DATES.—Except as provided by para-
20 graph (2), the amendments made by this section shall
21 apply to property placed in service after December 31,
22 2005, in taxable years ending after such date.

1 **SEC. 1528. CREDIT FOR BUSINESS INSTALLATION OF**
2 **QUALIFIED FUEL CELLS AND STATIONARY**
3 **MICROTURBINE POWER PLANTS.**

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

9 “(iv) qualified fuel cell property or
10 qualified microturbine property,”.

11 (b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED
12 MICROTURBINE PROPERTY.—Section 48 (relating to en-
13 ergy credit) is amended by adding at the end the following
14 new subsection:

15 “(d) QUALIFIED FUEL CELL PROPERTY; QUALIFIED
16 MICROTURBINE PROPERTY.—For purposes of this
17 subsection—

18 “(1) QUALIFIED FUEL CELL PROPERTY.—

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

22 “(i) has a nameplate capacity of at
23 least 0.5 kilowatt of electricity using an
24 electrochemical process, and

25 “(ii) has an electricity-only generation
26 efficiency greater than 30 percent.

1 “(B) LIMITATION.—In the case of quali-
2 fied fuel cell property placed in service during
3 the taxable year, the credit otherwise deter-
4 mined under paragraph (1) for such year with
5 respect to such property shall not exceed an
6 amount equal to \$500 for each 0.5 kilowatt of
7 capacity of such property.

8 “(C) FUEL CELL POWER PLANT.—The
9 term ‘fuel cell power plant’ means an integrated
10 system comprised of a fuel cell stack assembly
11 and associated balance of plant components
12 which converts a fuel into electricity using elec-
13 trochemical means.

14 “(D) SPECIAL RULE.—The first sentence
15 of the matter in subsection (a)(3) which follows
16 subparagraph (D) thereof shall not apply to
17 qualified fuel cell property which is used pre-
18 dominantly in the trade or business of the fur-
19 nishing or sale of telephone service, telegraph
20 service by means of domestic telegraph oper-
21 ations, or other telegraph services (other than
22 international telegraph services).

23 “(E) TERMINATION.—The term ‘qualified
24 fuel cell property’ shall not include any property
25 for any period after December 31, 2009.

1 “(2) QUALIFIED MICROTURBINE PROPERTY.—

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

5 “(i) has a nameplate capacity of less
6 than 2,000 kilowatts, and

7 “(ii) has an electricity-only generation
8 efficiency of not less than 26 percent at
9 International Standard Organization condi-
10 tions.

11 “(B) LIMITATION.—In the case of quali-
12 fied microturbine property placed in service
13 during the taxable year, the credit otherwise de-
14 termined under paragraph (1) for such year
15 with respect to such property shall not exceed
16 an amount equal \$200 for each kilowatt of ca-
17 pacity of such property.

18 “(C) STATIONARY MICROTURBINE POWER
19 PLANT.—The term ‘stationary microturbine
20 power plant’ means an integrated system com-
21 prised of a gas turbine engine, a combustor, a
22 recuperator or regenerator, a generator or alter-
23 nator, and associated balance of plant compo-
24 nents which converts a fuel into electricity and
25 thermal energy. Such term also includes all sec-

1 ondary components located between the existing
2 infrastructure for fuel delivery and the existing
3 infrastructure for power distribution, including
4 equipment and controls for meeting relevant
5 power standards, such as voltage, frequency,
6 and power factors.

7 “(D) SPECIAL RULE.—The first sentence
8 of the matter in subsection (a)(3) which follows
9 subparagraph (D) thereof shall not apply to
10 qualified microturbine property which is used
11 predominantly in the trade or business of the
12 furnishing or sale of telephone service, tele-
13 graph service by means of domestic telegraph
14 operations, or other telegraph services (other
15 than international telegraph services).

16 “(E) TERMINATION.—The term ‘qualified
17 microturbine property’ shall not include any
18 property for any period after December 31,
19 2008.”.

20 (c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (re-
21 lating to energy percentage) is amended to read as follows:

22 “(A) IN GENERAL.—The energy percent-
23 age is—

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

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

3 (d) CONFORMING AMENDMENT.—Section 48(a)(1) is
4 amended by inserting “except as provided in paragraph
5 (1)(B) or (2)(B) of subsection (d),” before “the energy”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to periods after December 31,
8 2005, in taxable years ending after such date, under rules
9 similar to the rules of section 48(m) of the Internal Rev-
10 enue Code of 1986 (as in effect on the day before the date
11 of the enactment of the Revenue Reconciliation Act of
12 1990).

13 **SEC. 1529. BUSINESS SOLAR INVESTMENT TAX CREDIT.**

14 (a) INCREASE IN ENERGY PERCENTAGE.—Section
15 48(a)(2)(A) (relating to energy percentage), as amended
16 by this Act, is amended to read as follows:

17 “(A) IN GENERAL.—The energy percent-
18 age is—

19 “(i) in the case of energy property de-
20 scribed in paragraph (3)(A)(i) and quali-
21 fied fuel cell property, 30 percent, and

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

24 (b) HYBRID SOLAR LIGHTING SYSTEMS.—Clause (i)
25 of section 48(a)(3)(A) is amended to read as follows:

1 “(i) equipment which uses solar en-
2 ergy to generate electricity for use in a
3 structure, to heat or cool (or provide hot
4 water for use in) a structure, to illuminate
5 the inside of a structure using fiber-optic
6 distributed sunlight or to provide solar
7 process heat, excepting property used to
8 generate energy for the purposes of heat-
9 ing a swimming pool.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to periods after December 31,
12 2005, in taxable years ending after such date, and before
13 January 1, 2010, under rules similar to the rules of sec-
14 tion 48(m) of the Internal Revenue Code of 1986 (as in
15 effect on the day before the date of the enactment of the
16 Revenue Reconciliation Act of 1990).

17 **Subtitle D—Alternative Motor**
18 **Vehicles and Fuels Incentives**

19 **SEC. 1531. ALTERNATIVE MOTOR VEHICLE CREDIT.**

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

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

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

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

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

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

11 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE
12 CREDIT.—

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

18 “(A) \$8,000 (\$4,000 in the case of a vehi-
19 cle placed in service after December 31, 2009),
20 if such vehicle has a gross vehicle weight rating
21 of not more than 8,500 pounds,

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

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

4 “(D) \$40,000, if such vehicle has a gross
5 vehicle weight rating of more than 26,000
6 pounds.

7 “(2) INCREASE FOR FUEL EFFICIENCY.—

8 “(A) IN GENERAL.—The amount deter-
9 mined under paragraph (1)(A) with respect to
10 a new qualified fuel cell motor vehicle which is
11 a passenger automobile or light truck shall be
12 increased by—

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

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

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

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

5 “(v) \$3,000, if such vehicle achieves
 6 at least 250 percent but less than 275 per-
 7 cent of the 2002 model year city fuel econ-
 8 omy,

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

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

16 “(B) 2002 MODEL YEAR CITY FUEL ECON-
 17 OMY.—For purposes of subparagraph (A), the
 18 2002 model year city fuel economy with respect
 19 to a vehicle shall be determined in accordance
 20 with the following tables:

21 “(i) In the case of a passenger auto-
 22 mobile:

| “If vehicle inertia weight class is: | The 2002 model year city fuel economy is: |
|---|--|
| 1,500 or 1,750 lbs | 45.2 mpg |
| 2,000 lbs | 39.6 mpg |
| 2,250 lbs | 35.2 mpg |
| 2,500 lbs | 31.7 mpg |
| 2,750 lbs | 28.8 mpg |
| 3,000 lbs | 26.4 mpg |

1 “(A) which is propelled by power derived
2 from 1 or more cells which convert chemical en-
3 ergy directly into electricity by combining oxy-
4 gen with hydrogen fuel which is stored on board
5 the vehicle in any form and may or may not re-
6 quire reformation prior to use,

7 “(B) which, in the case of a passenger
8 automobile or light truck, has received on or
9 after the date of the enactment of this section
10 a certificate that such vehicle meets or exceeds
11 the Bin 5 Tier II emission level established in
12 regulations prescribed by the Administrator of
13 the Environmental Protection Agency under
14 section 202(i) of the Clean Air Act for that
15 make and model year vehicle,

16 “(C) the original use of which commences
17 with the taxpayer,

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

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

21 “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE
22 CREDIT.—

23 “(1) IN GENERAL.—For purposes of subsection
24 (a), the new qualified hybrid motor vehicle credit de-
25 termined under this subsection with respect to a new

1 qualified hybrid motor vehicle placed in service by
2 the taxpayer during the taxable year is the credit
3 amount determined under paragraph (2) or (3).

4 “(2) CREDIT AMOUNT FOR LIGHTER VEHI-
5 CLES.—

6 “(A) IN GENERAL.—In the case of a new
7 qualified hybrid motor vehicle which is a pas-
8 senger automobile, medium duty passenger ve-
9 hicle, or light truck, the credit amount deter-
10 mined under this paragraph shall be—

11 “(i) \$400, if such vehicle achieves at
12 least 125 percent but less than 150 per-
13 cent of the 2002 model year city fuel econ-
14 omy,

15 “(ii) \$800, if such vehicle achieves at
16 least 150 percent but less than 175 per-
17 cent of the 2002 model year city fuel econ-
18 omy,

19 “(iii) \$1,200, if such vehicle achieves
20 at least 175 percent but less than 200 per-
21 cent of the 2002 model year city fuel econ-
22 omy,

23 “(iv) \$1,600, if such vehicle achieves
24 at least 200 percent but less than 225 per-

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

3 “(v) \$2,000, if such vehicle achieves
4 at least 225 percent but less than 250 per-
5 cent of the 2002 model year city fuel econ-
6 omy, and

7 “(vi) \$2,400, if such vehicle achieves
8 at least 250 percent of the 2002 model
9 year city fuel economy.

10 “(B) 2002 MODEL YEAR CITY FUEL ECON-
11 OMY.—For purposes of subparagraph (A), the
12 2002 model year city fuel economy with respect
13 to a vehicle shall be determined on a gasoline
14 gallon equivalent basis as determined by the
15 Administrator of the Environmental Protection
16 Agency using the tables provided in subsection
17 (b)(2)(B) with respect to such vehicle.

18 “(3) CREDIT AMOUNT FOR HEAVIER VEHI-
19 CLES.—

20 “(A) IN GENERAL.—In the case of a new
21 qualified hybrid motor vehicle which is a heavy
22 duty hybrid motor vehicle, the credit amount
23 determined under this paragraph is an amount
24 equal to the applicable percentage of the incre-

1 mental cost of such vehicle placed in service by
2 the taxpayer during the taxable year.

3 “(B) INCREMENTAL COST.—For purposes
4 of this paragraph, the incremental cost of any
5 heavy duty hybrid motor vehicle is equal to the
6 amount of the excess of the manufacturer’s
7 suggested retail price for such vehicle over such
8 price for a comparable gasoline or diesel fuel
9 motor vehicle of the same model, to the extent
10 such amount does not exceed—

11 “(i) \$7,500, if such vehicle has a
12 gross vehicle weight rating of more than
13 8,500 pounds but not more than 14,000
14 pounds,

15 “(ii) \$15,000, if such vehicle has a
16 gross vehicle weight rating of more than
17 14,000 pounds but not more than 26,000
18 pounds, and

19 “(iii) \$30,000, if such vehicle has a
20 gross vehicle weight rating of more than
21 26,000 pounds.

22 “(C) APPLICABLE PERCENTAGE.—For
23 purposes of subparagraph (A), the applicable
24 percentage shall be determined in accordance
25 with the following table:

1 Protection Agency under section
2 202(i) of the Clean Air Act for that
3 make and model year vehicle, and

4 “(II) has a maximum available
5 power of at least 5 percent,

6 “(iii) which, in the case of a heavy
7 duty hybrid motor vehicle—

8 “(I) which has a gross vehicle
9 weight rating of more than 8,500 but
10 not more than 14,000 pounds, has a
11 maximum available power of at least
12 10 percent, and

13 “(II) which has a gross vehicle
14 weight rating of more than 14,000
15 pounds, has a maximum available
16 power of at least 15 percent,

17 “(iv) the original use of which com-
18 mences with the taxpayer,

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

21 “(vi) which is made by a manufac-
22 turer.

23 “(B) CONSUMABLE FUEL.—For purposes
24 of subparagraph (A)(i)(I), the term ‘consumable
25 fuel’ means any solid, liquid, or gaseous matter

1 which releases energy when consumed by an
2 auxiliary power unit.

3 “(C) MAXIMUM AVAILABLE POWER.—

4 “(i) PASSENGER AUTOMOBILE, ME-
5 DIUM DUTY PASSENGER VEHICLE, OR
6 LIGHT TRUCK.—For purposes of subpara-
7 graph (A)(ii)(II), the term ‘maximum
8 available power’ means the maximum
9 power available from the rechargeable en-
10 ergy storage system, during a standard 10
11 second pulse power or equivalent test, di-
12 vided by such maximum power and the
13 SAE net power of the heat engine.

14 “(ii) HEAVY DUTY HYBRID MOTOR VE-
15 HICLE.—For purposes of subparagraph
16 (A)(iii), the term ‘maximum available
17 power’ means the maximum power avail-
18 able from the rechargeable energy storage
19 system, during a standard 10 second pulse
20 power or equivalent test, divided by the ve-
21 hicle’s total traction power. The term ‘total
22 traction power’ means the sum of the peak
23 power from the rechargeable energy stor-
24 age system and the heat engine peak
25 power of the vehicle, except that if such

1 storage system is the sole means by which
2 the vehicle can be driven, the total traction
3 power is the peak power of such storage
4 system.

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

11 “(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR
12 VEHICLE CREDIT.—

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

20 “(2) APPLICABLE PERCENTAGE.—For purposes
21 of paragraph (1), the applicable percentage with re-
22 spect to any new qualified alternative fuel motor ve-
23 hicle is—

24 “(A) 50 percent, plus

25 “(B) 30 percent, if such vehicle—

1 “(i) has received a certificate of con-
2 formity under the Clean Air Act and meets
3 or exceeds the most stringent standard
4 available for certification under the Clean
5 Air Act for that make and model year vehi-
6 cle (other than a zero emission standard),
7 or

8 “(ii) has received an order certifying
9 the vehicle as meeting the same require-
10 ments as vehicles which may be sold or
11 leased in California and meets or exceeds
12 the most stringent standard available for
13 certification under the State laws of Cali-
14 fornia (enacted in accordance with a waiv-
15 er granted under section 209(b) of the
16 Clean Air Act) for that make and model
17 year vehicle (other than a zero emission
18 standard).

19 For purposes of the preceding sentence, in the case
20 of any new qualified alternative fuel motor vehicle
21 which weighs more than 14,000 pounds gross vehicle
22 weight rating, the most stringent standard available
23 shall be such standard available for certification on
24 the date of the enactment of the Energy Tax Incen-
25 tives Act.

1 “(3) INCREMENTAL COST.—For purposes of
2 this subsection, the incremental cost of any new
3 qualified alternative fuel motor vehicle is equal to
4 the amount of the excess of the manufacturer’s sug-
5 gested retail price for such vehicle over such price
6 for a gasoline or diesel fuel motor vehicle of the
7 same model, to the extent such amount does not
8 exceed—

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

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

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

18 “(D) \$40,000, if such vehicle has a gross
19 vehicle weight rating of more than 26,000
20 pounds.

21 “(4) NEW QUALIFIED ALTERNATIVE FUEL
22 MOTOR VEHICLE.—For purposes of this
23 subsection—

1 would have been allowed under this sub-
2 section if such vehicle was a qualified alter-
3 native fuel motor vehicle, and

4 “(ii) in the case of a 90/10 mixed-fuel
5 vehicle, 90 percent of the credit which
6 would have been allowed under this sub-
7 section if such vehicle was a qualified alter-
8 native fuel motor vehicle.

9 “(B) MIXED-FUEL VEHICLE.—For pur-
10 poses of this subsection, the term ‘mixed-fuel
11 vehicle’ means any motor vehicle described in
12 subparagraph (C) or (D) of paragraph (3),
13 which—

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

18 “(ii) either—

19 “(I) has received a certificate of
20 conformity under the Clean Air Act,
21 or

22 “(II) has received an order certi-
23 fying the vehicle as meeting the same
24 requirements as vehicles which may be
25 sold or leased in California and meets

1 or exceeds the low emission vehicle
2 standard under section 88.105–94 of
3 title 40, Code of Federal Regulations,
4 for that make and model year vehicle,
5 “(iii) the original use of which com-
6 mences with the taxpayer,

7 “(iv) which is acquired by the tax-
8 payer for use or lease, but not for resale,
9 and

10 “(v) which is made by a manufac-
11 turer.

12 “(C) 75/25 MIXED-FUEL VEHICLE.—For
13 purposes of this subsection, the term ‘75/25
14 mixed-fuel vehicle’ means a mixed-fuel vehicle
15 which operates using at least 75 percent alter-
16 native fuel and not more than 25 percent petro-
17 leum-based fuel.

18 “(D) 90/10 MIXED-FUEL VEHICLE.—For
19 purposes of this subsection, the term ‘90/10
20 mixed-fuel vehicle’ means a mixed-fuel vehicle
21 which operates using at least 90 percent alter-
22 native fuel and not more than 10 percent petro-
23 leum-based fuel.

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

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

7 “(2) the tentative minimum tax for the taxable
8 year.

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

11 “(1) MOTOR VEHICLE.—The term ‘motor vehi-
12 cle’ has the meaning given such term by section
13 30(c)(2).

14 “(2) CITY FUEL ECONOMY.—The city fuel econ-
15 omy with respect to any vehicle shall be measured in
16 a manner which is substantially similar to the man-
17 ner city fuel economy is measured in accordance
18 with procedures under part 600 of subchapter Q of
19 chapter I of title 40, Code of Federal Regulations,
20 as in effect on the date of the enactment of this sec-
21 tion.

22 “(3) OTHER TERMS.—The terms ‘automobile’,
23 ‘passenger automobile’, ‘medium duty passenger ve-
24 hicle’, ‘light truck’, and ‘manufacturer’ have the
25 meanings given such terms in regulations prescribed

1 by the Administrator of the Environmental Protec-
2 tion Agency for purposes of the administration of
3 title II of the Clean Air Act (42 U.S.C. 7521 et
4 seq.).

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

10 “(5) NO DOUBLE BENEFIT.—The amount of
11 any deduction or other credit allowable under this
12 chapter—

13 “(A) for any incremental cost taken into
14 account in computing the amount of the credit
15 determined under subsection (d) shall be re-
16 duced by the amount of such credit attributable
17 to such cost, and

18 “(B) with respect to a vehicle described
19 under subsection (b) or (c), shall be reduced by
20 the amount of credit allowed under subsection
21 (a) for such vehicle for the taxable year.

22 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-
23 TY.—In the case of a vehicle whose use is described
24 in paragraph (3) or (4) of section 50(b) and which
25 is not subject to a lease, the person who sold such

1 vehicle to the person or entity using such vehicle
2 shall be treated as the taxpayer that placed such ve-
3 hicle in service, but only if such person clearly dis-
4 closes to such person or entity in a document the
5 amount of any credit allowable under subsection (a)
6 with respect to such vehicle (determined without re-
7 gard to subsection (e)).

8 “(7) PROPERTY USED OUTSIDE UNITED
9 STATES, ETC., NOT QUALIFIED.—No credit shall be
10 allowable under subsection (a) with respect to any
11 property referred to in section 50(b)(1) or with re-
12 spect to the portion of the cost of any property
13 taken into account under section 179.

14 “(8) RECAPTURE.—The Secretary shall, by reg-
15 ulations, provide for recapturing the benefit of any
16 credit allowable under subsection (a) with respect to
17 any property which ceases to be property eligible for
18 such credit (including recapture in the case of a
19 lease period of less than the economic life of a vehi-
20 cle).

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

1 “(10) CARRYBACK AND CARRYFORWARD AL-
2 LOWED.—

3 “(A) IN GENERAL.—If the credit allowable
4 under subsection (a) for a taxable year exceeds
5 the amount of the limitation under subsection
6 (e) for such taxable year (in this paragraph re-
7 ferred to as the ‘unused credit year’), such ex-
8 cess shall be a credit carryback to each of the
9 3 taxable years preceding the unused credit
10 year and a credit carryforward to each of the
11 20 taxable years following the unused credit
12 year, except that no excess may be carried to a
13 taxable year beginning before the date of the
14 enactment of this section. The preceding sen-
15 tence shall not apply to any credit carryback if
16 such credit carryback is attributable to property
17 for which a deduction for depreciation is not al-
18 lowable.

19 “(B) RULES.—Rules similar to the rules of
20 section 39 shall apply with respect to the credit
21 carryback and credit carryforward under sub-
22 paragraph (A).

23 “(11) INTERACTION WITH AIR QUALITY AND
24 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-
25 erwise provided in this section, a motor vehicle shall

1 not be considered eligible for a credit under this sec-
2 tion unless such vehicle is in compliance with—

3 “(A) the applicable provisions of the Clean
4 Air Act for the applicable make and model year
5 of the vehicle (or applicable air quality provi-
6 sions of State law in the case of a State which
7 has adopted such provision under a waiver
8 under section 209(b) of the Clean Air Act), and

9 “(B) the motor vehicle safety provisions of
10 sections 30101 through 30169 of title 49,
11 United States Code.

12 “(g) REGULATIONS.—

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

17 “(2) COORDINATION IN PRESCRIPTION OF CER-
18 TAIN REGULATIONS.—The Secretary of the Treas-
19 ury, in coordination with the Secretary of Transpor-
20 tation and the Administrator of the Environmental
21 Protection Agency, shall prescribe such regulations
22 as necessary to determine whether a motor vehicle
23 meets the requirements to be eligible for a credit
24 under this section.

1 “(h) TERMINATION.—This section shall not apply to
2 any property purchased after—

3 “(1) in the case of a new qualified fuel cell
4 motor vehicle (as described in subsection (b)), De-
5 cember 31, 2014,

6 “(2) in the case of a new qualified hybrid motor
7 vehicle (as described in subsection (c)), December
8 31, 2009, and

9 “(3) in the case of a new qualified alternative
10 fuel vehicle (as described in subsection (d)), Decem-
11 ber 31, 2010.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 1016(a), as amended by this Act, is
14 amended by striking “and” at the end of paragraph
15 (35), by striking the period at the end of paragraph
16 (36) and inserting “, and”, and by adding at the
17 end the following new paragraph:

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

20 (2) Section 55(c)(2), as amended by this Act, is
21 amended by inserting “30B(e),” after “30(b)(2),”.

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

24 (4) The table of sections for subpart B of part
25 IV of subchapter A of chapter 1 is amended by in-

1 serting after the item relating to section 30A the fol-
2 lowing new item:

“Sec. 30B. Alternative motor vehicle credit.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to property placed in service after
5 the date of the enactment of this Act, in taxable years
6 ending after such date.

7 **SEC. 1532. MODIFICATION OF CREDIT FOR QUALIFIED**
8 **ELECTRIC VEHICLES.**

9 (a) **AMOUNT OF CREDIT.**—

10 (1) **IN GENERAL.**—Section 30(a) (relating to al-
11 lowance of credit) is amended by striking “10 per-
12 cent of”.

13 (2) **LIMITATION OF CREDIT ACCORDING TO**
14 **TYPE OF VEHICLE.**—Paragraph (1) of section 30(b)
15 (relating to limitations) is amended to read as fol-
16 lows:

17 “(1) **LIMITATION ACCORDING TO TYPE OF VE-**
18 **HICLE.**—The amount of the credit allowed under
19 subsection (a) for any vehicle shall not exceed the
20 greatest of the following amounts applicable to such
21 vehicle:

22 “(A) In the case of a vehicle with a gross
23 vehicle weight rating not exceeding 8,500
24 pounds—

1 “(i) except as provided in clause (ii)
2 or (iii), \$4,000,

3 “(ii) \$6,000, if such vehicle is—

4 “(I) capable of a driving range of
5 at least 100 miles on a single charge
6 of the vehicle’s rechargeable batteries
7 as measured pursuant to the urban
8 dynamometer schedules under appen-
9 dix I to part 86 of title 40, Code of
10 Federal Regulations, or

11 “(II) capable of a payload capac-
12 ity of at least 1,000 pounds, and

13 “(iii) if such vehicle is a low-speed ve-
14 hicle which conforms to Standard 500 pre-
15 scribed by the Secretary of Transportation
16 (49 C.F.R. 571.500), as in effect on the
17 date of the enactment of the Energy Tax
18 Incentives Act, the lesser of—

19 “(I) 10 percent of the manufac-
20 turer’s suggested retail price of the
21 vehicle, or

22 “(II) \$1,500.

23 “(B) In the case of a vehicle with a gross
24 vehicle weight rating exceeding 8,500 but not
25 exceeding 14,000 pounds, \$10,000.

1 “(C) In the case of a vehicle with a gross
2 vehicle weight rating exceeding 14,000 but not
3 exceeding 26,000 pounds, \$20,000.

4 “(D) In the case of a vehicle with a gross
5 vehicle weight rating exceeding 26,000 pounds,
6 \$40,000.”.

7 (b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

8 (1) IN GENERAL.—Section 30(c)(1)(A) (defin-
9 ing qualified electric vehicle) is amended to read as
10 follows:

11 “(A) which is—

12 “(i) operated solely by use of a bat-
13 tery or battery pack, or

14 “(ii) powered primarily through the
15 use of an electric battery or battery pack
16 using a flywheel or capacitor which stores
17 energy produced by an electric motor
18 through regenerative braking to assist in
19 vehicle operation,”.

20 (2) LEASED VEHICLES.—Section 30(c)(1)(C) is
21 amended by inserting “or lease” after “use”.

22 (3) CONFORMING AMENDMENTS.—

23 (A) Subsections (a), (b)(2), and (c) of sec-
24 tion 30 are each amended by inserting “bat-
25 tery” after “qualified” each place it appears.

1 (B) The heading of subsection (c) of sec-
2 tion 30 is amended by inserting “BATTERY”
3 after “QUALIFIED”.

4 (C) The heading of section 30 is amended
5 by inserting “**BATTERY**” after “**QUALIFIED**”.

6 (D) The item relating to section 30 in the
7 table of sections for subpart B of part IV of
8 subchapter A of chapter 1 is amended by in-
9 serting “battery” after “qualified”.

10 (E) Section 179A(c)(3) is amended by in-
11 serting “battery” before “electric”.

12 (F) The heading of paragraph (3) of sec-
13 tion 179A(c) is amended by inserting “BAT-
14 TERY” before “ELECTRIC”.

15 (c) ADDITIONAL SPECIAL RULES.—

16 (1) IN GENERAL.—Section 30(d) (relating to
17 special rules) is amended by adding at the end the
18 following new paragraphs:

19 “(5) NO DOUBLE BENEFIT.—The amount of
20 any deduction or other credit allowable under this
21 chapter for any cost taken into account in com-
22 puting the amount of the credit determined under
23 subsection (a) shall be reduced by the amount of
24 such credit attributable to such cost.

1 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-
2 TY.—In the case of a vehicle whose use is described
3 in paragraph (3) or (4) of section 50(b) and which
4 is not subject to a lease, the person who sold such
5 vehicle to the person or entity using such vehicle
6 shall be treated as the taxpayer that placed such ve-
7 hicle in service, but only if such person clearly dis-
8 closes to such person or entity in a document the
9 amount of any credit allowable under subsection (a)
10 with respect to such vehicle (determined without re-
11 gard to subsection (b)(3)).

12 “(7) CARRYBACK AND CARRYFORWARD AL-
13 LOWED.—

14 “(A) IN GENERAL.—If the credit allowable
15 under subsection (a) for a taxable year exceeds
16 the amount of the limitation under subsection
17 (b)(2) for such taxable year (in this paragraph
18 referred to as the ‘unused credit year’), such
19 excess shall be a credit carryback to each of the
20 3 taxable years preceding the unused credit
21 year and a credit carryforward to each of the
22 20 taxable years following the unused credit
23 year, except that no excess may be carried to a
24 taxable year beginning before the date of the
25 enactment of this paragraph. The preceding

1 sentence shall not apply to any credit carryback
2 if such credit carryback is attributable to prop-
3 erty for which a deduction for depreciation is
4 not allowable.

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

9 (2) CONFORMING AMENDMENTS.—Section
10 30(d)(3) is amended—

11 (A) by striking “section 50(b)” and insert-
12 ing “section 50(b)(1)”, and

13 (B) by striking “, ETC.,” in the heading
14 thereof.

15 (d) TERMINATION.—Section 30(e) (relating to termi-
16 nation) is amended by striking “2006” and inserting
17 “2009”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property placed in service after
20 the date of the enactment of this Act, in taxable years
21 ending after such date.

22 **SEC. 1533. CREDIT FOR INSTALLATION OF ALTERNATIVE**
23 **FUELING STATIONS.**

24 (a) IN GENERAL.—Subpart B of part IV of sub-
25 chapter A of chapter 1 (relating to other credits), as

1 amended by this Act, is amended by adding at the end
2 the following new section:

3 **“SEC. 30C. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
4 **ERTY CREDIT.**

5 “(a) CREDIT ALLOWED.—There shall be allowed as
6 a credit against the tax imposed by this chapter for the
7 taxable year an amount equal to 50 percent of the cost
8 of any qualified alternative fuel vehicle refueling property
9 placed in service by the taxpayer during the taxable year.

10 “(b) LIMITATION.—The credit allowed under sub-
11 section (a) with respect to any alternative fuel vehicle re-
12 fueling property shall not exceed—

13 “(1) \$30,000 in the case of a property of a
14 character subject to an allowance for depreciation,
15 and

16 “(2) \$1,000 in any other case.

17 “(c) QUALIFIED ALTERNATIVE FUEL VEHICLE RE-
18 FUELING PROPERTY.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), the term ‘qualified alternative fuel vehicle
21 refueling property’ has the meaning given to such
22 term by section 179A(d), but only with respect to
23 any fuel at least 85 percent of the volume of which
24 consists of ethanol, natural gas, compressed natural

1 gas, liquefied natural gas, liquefied petroleum gas,
2 and hydrogen.

3 “(2) RESIDENTIAL PROPERTY.—In the case of
4 any property installed on property which is used as
5 the principal residence (within the meaning of sec-
6 tion 121) of the taxpayer, paragraph (1) of section
7 179A(d) shall not apply.

8 “(d) APPLICATION WITH OTHER CREDITS.—The
9 credit allowed under subsection (a) for any taxable year
10 shall not exceed the excess (if any) of—

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

14 “(2) the tentative minimum tax for the taxable
15 year.

16 “(e) CARRYFORWARD ALLOWED.—

17 “(1) IN GENERAL.—If the credit amount allow-
18 able under subsection (a) for a taxable year exceeds
19 the amount of the limitation under subsection (d)
20 for such taxable year, such excess shall be allowed
21 as a credit carryforward for each of the 20 taxable
22 years following the unused credit year.

23 “(2) RULES.—Rules similar to the rules of sec-
24 tion 39 shall apply with respect to the credit
25 carryforward under paragraph (1).

1 “(f) SPECIAL RULES.—For purposes of this
2 section—

3 “(1) BASIS REDUCTION.—The basis of any
4 property shall be reduced by the portion of the cost
5 of such property taken into account under sub-
6 section (a).

7 “(2) NO DOUBLE BENEFIT.—No deduction
8 shall be allowed under section 179A with respect to
9 any property with respect to which a credit is al-
10 lowed under subsection (a).

11 “(3) PROPERTY USED BY TAX-EXEMPT ENTI-
12 TY.—In the case of any qualified alternative fuel ve-
13 hicle refueling property the use of which is described
14 in paragraph (3) or (4) of section 50(b) and which
15 is not subject to a lease, the person who sold such
16 property to the person or entity using such property
17 shall be treated as the taxpayer that placed such
18 property in service, but only if such person clearly
19 discloses to such person or entity in a document the
20 amount of any credit allowable under subsection (a)
21 with respect to such property (determined without
22 regard to subsection (d)).

23 “(4) PROPERTY USED OUTSIDE UNITED STATES
24 NOT QUALIFIED.—No credit shall be allowable under
25 subsection (a) with respect to any property referred

1 to in section 50(b)(1) or with respect to the portion
2 of the cost of any property taken into account under
3 section 179.

4 “(5) ELECTION NOT TO TAKE CREDIT.—No
5 credit shall be allowed under subsection (a) for any
6 property if the taxpayer elects not to have this sec-
7 tion apply to such property.

8 “(6) RECAPTURE RULES.—Rules similar to the
9 rules of section 179A(e)(4) shall apply.

10 “(g) REGULATIONS.—The Secretary shall prescribe
11 such regulations as necessary to carry out the provisions
12 of this section.

13 “(h) TERMINATION.—This section shall not apply to
14 any property placed in service—

15 “(1) in the case of property relating to hydro-
16 gen, after December 31, 2014, and

17 “(2) in the case of any other property, after
18 December 31, 2009.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 1016(a), as amended by this Act, is
21 amended by striking “and” at the end of paragraph
22 (36), by striking the period at the end of paragraph
23 (37) and inserting “, and”, and by adding at the
24 end the following new paragraph:

1 “(ii) in the case of liquefied natural
2 gas, any liquid fuel (other than ethanol
3 and methanol) derived from coal (including
4 peat), and liquid hydrocarbons derived
5 from biomass (as defined in section
6 29(c)(3)), 24.3 cents per gallon.”.

7 (2) TREATMENT OF COMPRESSED NATURAL
8 GAS.—Section 4041(a)(3) (relating to compressed
9 natural gas) is amended—

10 (A) by striking “48.54 cents per MCF (de-
11 termined at standard temperature and pres-
12 sure)” in subparagraph (A) and inserting “18.3
13 cents per energy equivalent of a gallon of gaso-
14 line”, and

15 (B) by striking “MCF” in subparagraph
16 (C) and inserting “energy equivalent of a gallon
17 of gasoline”.

18 (3) ZERO RATE FOR HYDROGEN.—Section
19 4041(a)(2)(A) is amended by inserting “liquefied hy-
20 drogen,” after “fuel oil,”.

21 (4) NEW REFERENCE.—The heading for para-
22 graph (2) of section 4041(a) is amended by striking
23 “SPECIAL MOTOR FUELS” and inserting “ALTER-
24 NATIVE FUELS”.

1 (b) CREDIT FOR ALTERNATIVE FUEL AND ALTER-
2 NATIVE FUEL MIXTURES.—

3 (1) IN GENERAL.—Section 6426(a) (relating to
4 allowance of credits) is amended to read as follows:

5 “(a) ALLOWANCE OF CREDITS.—There shall be al-
6 lowed as a credit—

7 “(1) against the tax imposed by section 4081
8 an amount equal to the sum of the credits described
9 in subsections (b), (c), and (e), and

10 “(2) against the tax imposed by section 4041
11 an amount equal to the sum of the credits described
12 in subsection (d).

13 No credit shall be allowed in the case of the credits de-
14 scribed in subsections (d) and (e) unless the taxpayer is
15 registered under section 4101.

16 (2) ALTERNATIVE FUEL AND ALTERNATIVE
17 FUEL MIXTURE CREDIT.—Section 6426 (relating to
18 credit for alcohol fuel and biodiesel mixtures) is
19 amended by redesignating subsections (d) and (e) as
20 subsections (f) and (g) and by inserting after sub-
21 section (c) the following new subsections:

22 “(d) ALTERNATIVE FUEL CREDIT.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the alternative fuel credit is the product of 50
25 cents and the number of gallons of an alternative

1 fuel or gasoline gallon equivalents of a nonliquid al-
2 ternative fuel sold by the taxpayer for use as a fuel
3 in a motor vehicle or motorboat, or so used by the
4 taxpayer.

5 “(2) ALTERNATIVE FUEL.—For purposes of
6 this section, the term ‘alternative fuel’ means—

7 “(A) liquefied petroleum gas,

8 “(B) P Series Fuels (as defined by the
9 Secretary of Energy under section 13211(2) of
10 title 42, United States Code),

11 “(C) compressed or liquefied natural gas,

12 “(D) hydrogen,

13 “(E) any liquid fuel derived from coal (in-
14 cluding peat) through the Fischer-Tropsch
15 process,

16 “(F) liquid hydrocarbons derived from bio-
17 mass (as defined in section 29(c)(3)).

18 Such term does not include ethanol, methanol, or
19 biodiesel.

20 “(3) GASOLINE GALLON EQUIVALENT.—For
21 purposes of this subsection, the term ‘gasoline gallon
22 equivalent’ means, with respect to any nonliquid al-
23 ternative fuel, the amount of such fuel having a Btu
24 content of 124,800 (higher heating value).

1 “(4) TERMINATION.—This subsection shall not
2 apply to any sale, use, or removal for any period
3 after September 30, 2009.

4 “(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

5 “(1) IN GENERAL.—For purposes of this sec-
6 tion, the alternative fuel mixture credit is the prod-
7 uct of 50 cents and the number of gallons of alter-
8 native fuel used by the taxpayer in producing any al-
9 ternative fuel mixture for sale or use in a trade or
10 business of the taxpayer.

11 “(2) ALTERNATIVE FUEL MIXTURE.—For pur-
12 poses of this section, the term ‘alternative fuel mix-
13 ture’ means a mixture of alternative fuel and taxable
14 fuel (as defined in subparagraph (A), (B), or (C) of
15 section 4083(a)(1)) which—

16 “(A) is sold by the taxpayer producing
17 such mixture to any person for use as fuel, or

18 “(B) is used as a fuel by the taxpayer pro-
19 ducing such mixture.

20 “(3) TERMINATION.—This subsection shall not
21 apply to any sale, use, or removal for any period
22 after September 30, 2009.”.

23 “(3) CONFORMING AMENDMENTS.—

24 “(A) The section heading for section 6426
25 is amended by striking “**ALCOHOL FUEL AND**

1 **BIODIESEL**” and inserting “**ALCOHOL FUEL,**
2 **BIODIESEL, AND ALTERNATIVE FUEL**”.

3 (B) The table of sections for subchapter B
4 of chapter 65 is amended by striking “alcohol
5 fuel and biodiesel” in the item relating to sec-
6 tion 6426 and inserting “alcohol fuel, biodiesel,
7 and alternative fuel”.

8 (C) Section 6427(e) is amended—

9 (i) by inserting “or the alternative
10 fuel mixture credit” after “biodiesel mix-
11 ture credit” in paragraph (1),

12 (ii) by redesignating paragraph (2) as
13 paragraph (3) and paragraph (4) as para-
14 graph (5),

15 (iii) by inserting after paragraph (1)
16 the following new paragraph:

17 “(2) **ALTERNATIVE FUEL.**—If any person sells
18 or uses an alternative fuel (as defined in section
19 6426(d)(2)) for a purpose described in section
20 6426(d)(1) in such person’s trade or business, the
21 Secretary shall pay (without interest) to such person
22 an amount equal to the alternative fuel credit with
23 respect to such fuel.”,

24 (iv) by striking “under paragraph (1)
25 with respect to any mixture” in paragraph

1 (3) (as redesignated by clause (ii)) and in-
2 sserting “under paragraph (1) or (2) with
3 respect to any mixture or alternative fuel”,
4 (v) by inserting after paragraph (3)
5 (as so redesignated) the following new
6 paragraph:

7 “(4) REGISTRATION REQUIREMENT FOR ALTER-
8 NATIVE FUELS.—The Secretary shall not make any
9 payment under this subsection to any person with
10 respect to any alternative fuel credit or alternative
11 fuel mixture credit unless the person is registered
12 under section 4101.”,

13 (vi) by striking “and” at the end of
14 paragraph (5)(A) (as redesignated by
15 clause (ii)),

16 (vii) by striking the period at the end
17 of paragraph (5)(B) (as so redesignated)
18 and inserting a comma,

19 (viii) by adding at the end of para-
20 graph (4) (as so redesignated) the fol-
21 lowing new subparagraphs:

22 “(C) except as provided in subparagraph
23 (D), any alternative fuel or alternative fuel mix-
24 ture (as defined in section 6426 (d)(2) or

1 (e)(3)) sold or used after September 30, 2009,
2 and

3 “(D) any alternative fuel or alternative
4 fuel mixture (as so defined) involving hydrogen
5 sold or used after December 31, 2014.”, and

6 (ix) by striking “OR BIODIESEL USED
7 TO PRODUCE ALCOHOL FUEL AND BIO-
8 DIESEL MIXTURES” in the heading and in-
9 serting “, BIODIESEL, OR ALTERNATIVE
10 FUEL”.

11 (c) ADDITIONAL REGISTRATION REQUIREMENTS.—
12 Section 4101(a)(1) (relating to registration) is amended—

13 (1) by striking “4041(a)(1)” and inserting
14 “4041(a)”, and

15 (2) by inserting “or hydrogen” before “shall
16 register”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to any sale, use, or removal for
19 any period after September 30, 2006.

20 **SEC. 1535. EXTENSION OF EXCISE TAX PROVISIONS AND IN-**
21 **COME TAX CREDIT FOR BIODIESEL.**

22 (a) IN GENERAL.—Sections 40A(e), 6426(e)(6), and
23 6427(e)(4)(B) are each amended by striking “2006” and
24 inserting “2010”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **Subtitle E—Additional Energy Tax** 5 **Incentives**

6 **SEC. 1541. TEN-YEAR RECOVERY PERIOD FOR UNDER-** 7 **GROUND NATURAL GAS STORAGE FACILITY** 8 **PROPERTY.**

9 (a) IN GENERAL.—Subparagraph (D) of section
10 168(e)(3) (relating to 10-year property) is amended by
11 striking “and” at the end of clause (i), by striking the
12 period at the end of clause (ii) and inserting “, and”, and
13 by adding at the end the following new clause:

14 “(iii) any qualified underground nat-
15 ural gas storage facility property.”.

16 (b) DEFINITION.—Section 168(i) (relating to defini-
17 tions and special rules) is amended by adding at the end
18 the following new paragraph:

19 “(17) QUALIFIED UNDERGROUND NATURAL GAS
20 STORAGE FACILITY PROPERTY.—

21 “(A) IN GENERAL.—The term ‘qualified
22 underground natural gas storage facility prop-
23 erty’ means any underground natural gas stor-
24 age facility and any equipment related to such
25 facility, including any nonrecoverable cushion

1 gas, the original use of which commences with
2 the taxpayer.

3 “(B) CUSHION GAS.—The term ‘cushion
4 gas’ means the minimum volume of natural gas
5 necessary to provide the pressure to facilitate
6 the flow of natural gas from a storage reservoir,
7 aquifer, or cavern to a pipeline.”.

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

11 **SEC. 1542. EXPANSION OF RESEARCH CREDIT.**

12 (a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-
13 TAIN COLLABORATIVE ENERGY RESEARCH CONSORTIA.—

14 (1) IN GENERAL.—Section 41(a) (relating to
15 credit for increasing research activities) is amended
16 by striking “and” at the end of paragraph (1), by
17 striking the period at the end of paragraph (2) and
18 inserting “, and”, and by adding at the end the fol-
19 lowing new paragraph:

20 “(3) 20 percent of the amounts paid or in-
21 curred by the taxpayer in carrying on any trade or
22 business of the taxpayer during the taxable year (in-
23 cluding as contributions) to an energy research con-
24 sortium.”.

1 (2) ENERGY RESEARCH CONSORTIUM DE-
2 FINED.—Section 41(f) (relating to special rules) is
3 amended by adding at the end the following new
4 paragraph:

5 “(6) ENERGY RESEARCH CONSORTIUM.—

6 “(A) IN GENERAL.—The term ‘energy re-
7 search consortium’ means any organization—

8 “(i) which is—

9 “(I) described in section
10 501(c)(3) and is exempt from tax
11 under section 501(a) and is organized
12 and operated primarily to conduct en-
13 ergy research, or

14 “(II) organized and operated pri-
15 marily to conduct energy research in
16 the public interest (within the mean-
17 ing of section 501(c)(3)),

18 “(ii) which is not a private founda-
19 tion,

20 “(iii) to which at least 5 unrelated
21 persons paid or incurred during the cal-
22 endar year in which the taxable year of the
23 organization begins amounts (including as
24 contributions) to such organization for en-
25 ergy research, and

1 “(iv) to which no single person paid
2 or incurred (including as contributions)
3 during such calendar year an amount
4 equal to more than 50 percent of the total
5 amounts received by such organization
6 during such calendar year for energy re-
7 search.

8 “(B) TREATMENT OF PERSONS.—All per-
9 sons treated as a single employer under sub-
10 section (a) or (b) of section 52 shall be treated
11 as related persons for purposes of subparagraph
12 (A)(iii) and as a single person for purposes of
13 subparagraph (A)(iv).”.

14 (3) CONFORMING AMENDMENT.—Section
15 41(b)(3)(C) is amended by inserting “(other than an
16 energy research consortium)” after “organization”.

17 (b) REPEAL OF LIMITATION ON CONTRACT RE-
18 SEARCH EXPENSES PAID TO SMALL BUSINESSES, UNI-
19 VERSITIES, AND FEDERAL LABORATORIES.—Section
20 41(b)(3) (relating to contract research expenses) is
21 amended by adding at the end the following new subpara-
22 graph:

23 “(D) AMOUNTS PAID TO ELIGIBLE SMALL
24 BUSINESSES, UNIVERSITIES, AND FEDERAL
25 LABORATORIES.—

1 “(i) IN GENERAL.—In the case of
2 amounts paid by the taxpayer to—

3 “(I) an eligible small business,

4 “(II) an institution of higher
5 education (as defined in section
6 3304(f)), or

7 “(III) an organization which is a
8 Federal laboratory,

9 for qualified research which is energy re-
10 search, subparagraph (A) shall be applied
11 by substituting ‘100 percent’ for ‘65 per-
12 cent’.

13 “(ii) ELIGIBLE SMALL BUSINESS.—
14 For purposes of this subparagraph, the
15 term ‘eligible small business’ means a
16 small business with respect to which the
17 taxpayer does not own (within the meaning
18 of section 318) 50 percent or more of—

19 “(I) in the case of a corporation,
20 the outstanding stock of the corpora-
21 tion (either by vote or value), and

22 “(II) in the case of a small busi-
23 ness which is not a corporation, the
24 capital and profits interests of the
25 small business.

1 “(iii) SMALL BUSINESS.—For pur-
2 poses of this subparagraph—

3 “(I) IN GENERAL.—The term
4 ‘small business’ means, with respect
5 to any calendar year, any person if
6 the annual average number of employ-
7 ees employed by such person during
8 either of the 2 preceding calendar
9 years was 500 or fewer. For purposes
10 of the preceding sentence, a preceding
11 calendar year may be taken into ac-
12 count only if the person was in exist-
13 ence throughout the year.

14 “(II) STARTUPS, CONTROLLED
15 GROUPS, AND PREDECESSORS.—Rules
16 similar to the rules of subparagraphs
17 (B) and (D) of section 220(c)(4) shall
18 apply for purposes of this clause.

19 “(iv) FEDERAL LABORATORY.—For
20 purposes of this subparagraph, the term
21 ‘Federal laboratory’ has the meaning given
22 such term by section 4(6) of the Steven-
23 son-Wydler Technology Innovation Act of
24 1980 (15 U.S.C. 3703(6)), as in effect on

1 the date of the enactment of the Energy
2 Tax Incentives Act.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to amounts paid or incurred after
5 the date of the enactment of this Act, in taxable years
6 ending after such date.

7 **SEC. 1543. SMALL AGRI-BIODIESEL PRODUCER CREDIT.**

8 (a) IN GENERAL.—Subsection (a) of section 40A (re-
9 lating to biodiesel used as a fuel) is amended to read as
10 follows:

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

14 “(1) the biodiesel mixture credit, plus

15 “(2) the biodiesel credit, plus

16 “(3) in the case of an eligible small agri-bio-
17 diesel producer, the small agri-biodiesel producer
18 credit.”.

19 (b) SMALL AGRI-BIODIESEL PRODUCER CREDIT DE-
20 FINED.—Section 40A(b) (relating to definition of biodiesel
21 mixture credit and biodiesel credit) is amended by adding
22 at the end the following new paragraph:

23 “(5) SMALL AGRI-BIODIESEL PRODUCER CRED-
24 IT.—

1 “(A) IN GENERAL.—The small agri-bio-
2 diesel producer credit of any eligible small agri-
3 biodiesel producer for any taxable year is 10
4 cents for each gallon of qualified agri-biodiesel
5 production of such producer.

6 “(B) QUALIFIED AGRI-BIODIESEL PRODUC-
7 TION.—For purposes of this paragraph, the
8 term ‘qualified agri-biodiesel production’ means
9 any agri-biodiesel which is produced by an eligi-
10 ble small agri-biodiesel producer, and which
11 during the taxable year—

12 “(i) is sold by such producer to an-
13 other person—

14 “(I) for use by such other person
15 in the production of a qualified bio-
16 diesel mixture in such other person’s
17 trade or business (other than casual
18 off-farm production),

19 “(II) for use by such other per-
20 son as a fuel in a trade or business,
21 or

22 “(III) who sells such agri-bio-
23 diesel at retail to another person and
24 places such agri-biodiesel in the fuel
25 tank of such other person, or

1 “(ii) is used or sold by such producer
2 for any purpose described in clause (i).

3 “(C) LIMITATION.—The qualified agri-bio-
4 diesel production of any producer for any tax-
5 able year shall not exceed 15,000,000 gallons.”.

6 (c) DEFINITIONS AND SPECIAL RULES.—Section
7 40A is amended by redesignating subsection (e) as sub-
8 section (f) and by inserting after subsection (d) the fol-
9 lowing new subsection:

10 “(e) DEFINITIONS AND SPECIAL RULES FOR SMALL
11 AGRI-BIODIESEL PRODUCER CREDIT.—For purposes of
12 this section—

13 “(1) ELIGIBLE SMALL AGRI-BIODIESEL PRO-
14 DUCER.—The term ‘eligible small agri-biodiesel pro-
15 ducer’ means a person who, at all times during the
16 taxable year, has a productive capacity for agri-bio-
17 diesel not in excess of 60,000,000 gallons.

18 “(2) AGGREGATION RULE.—For purposes of
19 the 15,000,000 gallon limitation under subsection
20 (b)(5)(C) and the 60,000,000 gallon limitation
21 under paragraph (1), all members of the same con-
22 trolled group of corporations (within the meaning of
23 section 267(f)) and all persons under common con-
24 trol (within the meaning of section 52(b) but deter-
25 mined by treating an interest of more than 50 per-

1 cent as a controlling interest) shall be treated as 1
2 person.

3 “(3) PARTNERSHIP, S CORPORATION, AND
4 OTHER PASS-THRU ENTITIES.—In the case of a
5 partnership, trust, S corporation, or other pass-thru
6 entity, the limitations contained in subsection
7 (b)(5)(C) and paragraph (1) shall be applied at the
8 entity level and at the partner or similar level.

9 “(4) ALLOCATION.—For purposes of this sub-
10 section, in the case of a facility in which more than
11 1 person has an interest, productive capacity shall
12 be allocated among such persons in such manner as
13 the Secretary may prescribe.

14 “(5) REGULATIONS.—The Secretary may pre-
15 scribe such regulations as may be necessary—

16 “(A) to prevent the credit provided for in
17 subsection (a)(3) from directly or indirectly
18 benefiting any person with a direct or indirect
19 productive capacity of more than 60,000,000
20 gallons of agri-biodiesel during the taxable year,
21 or

22 “(B) to prevent any person from directly
23 or indirectly benefiting with respect to more
24 than 15,000,000 gallons during the taxable
25 year.

1 “(6) ALLOCATION OF SMALL AGRI-BIODIESEL
2 CREDIT TO PATRONS OF COOPERATIVE.—

3 “(A) ELECTION TO ALLOCATE.—

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

13 “(ii) FORM AND EFFECT OF ELEC-
14 TION.—An election under clause (i) for any
15 taxable year shall be made on a timely
16 filed return for such year. Such election,
17 once made, shall be irrevocable for such
18 taxable year. Such election shall not take
19 effect unless the organization designates
20 the apportionment as such in a written no-
21 tice mailed to its patrons during the pay-
22 ment period described in section 1382(d).

23 “(B) TREATMENT OF ORGANIZATIONS AND
24 PATRONS.—

1 “(i) ORGANIZATIONS.—The amount of
2 the credit not apportioned to patrons pur-
3 suant to subparagraph (A) shall be in-
4 cluded in the amount determined under
5 subsection (a)(3) for the taxable year of
6 the organization.

7 “(ii) PATRONS.—The amount of the
8 credit apportioned to patrons pursuant to
9 subparagraph (A) shall be included in the
10 amount determined under such subsection
11 for the first taxable year of each patron
12 ending on or after the last day of the pay-
13 ment period (as defined in section
14 1382(d)) for the taxable year of the orga-
15 nization or, if earlier, for the taxable year
16 of each patron ending on or after the date
17 on which the patron receives notice from
18 the cooperative of the apportionment.

19 “(iii) SPECIAL RULES FOR DECREASE
20 IN CREDITS FOR TAXABLE YEAR.—If the
21 amount of the credit of the organization
22 determined under such subsection for a
23 taxable year is less than the amount of
24 such credit shown on the return of the or-

1 organization for such year, an amount equal
2 to the excess of—

3 “(I) such reduction, over

4 “(II) the amount not apportioned
5 to such patrons under subparagraph
6 (A) for the taxable year,

7 shall be treated as an increase in tax im-
8 posed by this chapter on the organization.
9 Such increase shall not be treated as tax
10 imposed by this chapter for purposes of de-
11 termining the amount of any credit under
12 this chapter or for purposes of section
13 55.”.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Paragraph (4) of section 40A(b) is amended
16 by striking “this section” and inserting “paragraph
17 (1) or (2) of subsection (a)”.

18 (2) The heading of subsection (b) of section
19 40A is amended by striking “AND BIODIESEL CRED-
20 IT” and inserting “, BIODIESEL CREDIT, AND
21 SMALL AGRI-BIODIESEL PRODUCER CREDIT”.

22 (3) Paragraph (3) of section 40A(d) is amended
23 by redesignating subparagraph (C) as subparagraph
24 (D) and by inserting after subparagraph (B) the fol-
25 lowing new subparagraph:

1 “(C) PRODUCER CREDIT.—If—
2 “(i) any credit was determined under
3 subsection (a)(3), and
4 “(ii) any person does not use such
5 fuel for a purpose described in subsection
6 (b)(5)(B),
7 then there is hereby imposed on such person a
8 tax equal to 10 cents a gallon for each gallon
9 of such agri-biodiesel.”.

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

13 **SEC. 1544. IMPROVEMENTS TO SMALL ETHANOL PRO-**
14 **DUCER CREDIT.**

15 (a) DEFINITION OF SMALL ETHANOL PRODUCER.—
16 Section 40(g) (relating to definitions and special rules for
17 eligible small ethanol producer credit) is amended by strik-
18 ing “30,000,000” each place it appears and inserting
19 “60,000,000”.

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

1 **SEC. 1545. CREDIT FOR EQUIPMENT FOR PROCESSING OR**
2 **SORTING MATERIALS GATHERED THROUGH**
3 **RECYCLING.**

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

8 **“SEC. 45M. CREDIT FOR QUALIFIED RECYCLING EQUIP-**
9 **MENT.**

10 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
11 tion 38, the qualified recycling equipment credit deter-
12 mined under this section for the taxable year is an amount
13 equal to the amount paid or incurred during the taxable
14 year for the cost of qualified recycling equipment placed
15 in service or leased by the taxpayer.

16 “(b) LIMITATION.—The amount allowable as a credit
17 under subsection (a) with respect to any qualified recy-
18 cling equipment shall not exceed 15 percent of the cost
19 of such qualified recycling equipment.

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

21 “(1) QUALIFIED RECYCLING EQUIPMENT.—

22 “(A) IN GENERAL.—The term ‘qualified
23 recycling equipment’ means equipment, includ-
24 ing connecting piping, employed in sorting or
25 processing residential and commercial qualified
26 recyclable materials for the purpose of con-

1 verting such materials for use in manufacturing
2 tangible consumer products, including pack-
3 aging. Such term includes equipment which is
4 utilized at commercial or public venues, includ-
5 ing recycling collection centers, where the
6 equipment is utilized to sort or process qualified
7 recyclable materials for such purpose.

8 “(B) EXCLUSION.—Such term does not in-
9 clude rolling stock or other equipment used to
10 transport recyclable materials.

11 “(2) QUALIFIED RECYCLABLE MATERIALS.—
12 The term ‘qualified recyclable materials’ means any
13 packaging or printed material which is glass, paper,
14 plastic, steel, or aluminum generated by an indi-
15 vidual or business and which has been separated
16 from solid waste for the purposes of collection and
17 recycling.

18 “(3) PROCESSING.—The term ‘processing’
19 means the preparation of qualified recyclable mate-
20 rials into feedstock for use in manufacturing tan-
21 gible consumer products.

22 “(d) AMOUNT PAID OR INCURRED.—For purposes of
23 this section—

24 “(1) IN GENERAL.—The term ‘amount paid or
25 incurred’ includes installation costs.

1 “(2) LEASE PAYMENTS.—In the case of the
2 leasing of qualified recycling equipment by the tax-
3 payer, the term ‘amount paid or incurred’ means the
4 amount of the lease payments due to be paid during
5 the term of the lease occurring during the taxable
6 year other than such portion of such lease payments
7 attributable to interest, insurance, and taxes.

8 “(3) GRANTS, ETC. EXCLUDED.—The term
9 ‘amount paid or incurred’ shall not include any
10 amount to the extent such amount is funded by any
11 grant, contract, or otherwise by another person (or
12 any governmental entity).

13 “(e) OTHER TAX DEDUCTIONS AND CREDITS AVAIL-
14 ABLE FOR PORTION OF COST NOT TAKEN INTO ACCOUNT
15 FOR CREDIT UNDER THIS SECTION.—No deduction or
16 other credit under this chapter shall be allowed with re-
17 spect to the amount of the credit determined under this
18 section.

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

25 (b) CONFORMING AMENDMENTS.—

1 (1) CREDIT MADE PART OF GENERAL BUSINESS
2 CREDIT.—Subsection (b) of section 38, as amended
3 by this Act, is amended by striking “plus” at the
4 end of paragraph (21), by striking the period at the
5 end of paragraph (22) and inserting “, plus”, and
6 by adding at the end the following new paragraph:

7 “(23) the qualified recycling equipment credit
8 determined under section 45M(a).”.

9 (2) Subsection (a) of section 1016, as amended
10 by this Act, is amended by striking “and” at the end
11 of paragraph (37), by striking the period at the end
12 of paragraph (38) and inserting “; and”, and by
13 adding at the end the following new paragraph:

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

17 (3) The table of sections for subpart D of part
18 IV of subchapter A of chapter 1, as amended by this
19 Act, is amended by inserting after the item relating
20 to section 45L the following new item:

“Sec. 45M. Credit for qualified recycling equipment.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2005.

1 **SEC. 1546. 5-YEAR NET OPERATING LOSS CARRYOVER IF**
2 **ANY RESULTING REFUND IS USED FOR ELEC-**
3 **TRIC TRANSMISSION EQUIPMENT.**

4 (a) IN GENERAL.—Paragraph (1) of section 172(b)
5 (relating to net operating loss carrybacks and carryovers)
6 is amended by adding at the end the following new sub-
7 paragraph:

8 “(I) TRANSMISSION PROPERTY INVEST-
9 MENT.—

10 “(i) IN GENERAL.—In the case of a
11 net operating loss in a taxable year ending
12 after December 31, 2002, and before Jan-
13 uary 1, 2006, there shall be a net oper-
14 ating loss carryback to each of the 5 years
15 preceding the taxable year of such loss to
16 the extent that any refund resulting from
17 such carryback is used for electric trans-
18 mission property capital expenditures or
19 pollution control facility capital expendi-
20 tures.

21 “(ii) REFUND CLAIM.—Any refund re-
22 sulting from the application of clause (i)
23 may be claimed by the taxpayer for any
24 taxable year ending after December 31,
25 2005, and before January 1, 2009, except
26 that the portion of such refund which may

1 be claimed during any taxable year shall
2 not exceed the sum of the taxpayer's elec-
3 tric transmission property capital expendi-
4 tures and pollution control facility capital
5 expenditures made in the preceding taxable
6 year.

7 “(iii) CARRYOVER OF EXCESS RE-
8 FUNDS.—Any portion of such refund that
9 exceeds the sum of the taxpayer's electric
10 transmission property capital expenditures
11 and pollution control facility capital ex-
12 penditures made during the preceding tax-
13 able year shall, subject to clause (ii), be
14 considered a refund due to the taxpayer
15 and claimed in the succeeding taxable year
16 if such taxable year begins before January
17 1, 2009.

18 “(iv) DEFINITIONS.—For purposes of
19 this subparagraph—

20 “(I) ELECTRIC TRANSMISSION
21 PROPERTY CAPITAL EXPENDI-
22 TURES.—The term ‘electric trans-
23 mission property capital expenditures’
24 means any expenditure, chargeable to
25 capital account, made by the taxpayer

1 which is attributable to electric trans-
2 mission property used in the trans-
3 mission at 69 or more kilovolts of
4 electricity for sale.

5 “(II) POLLUTION CONTROL FA-
6 CILITY CAPITAL EXPENDITURES.—
7 The term ‘pollution control facility
8 capital expenditures’ means any ex-
9 penditure, chargeable to capital ac-
10 count, made by an electric utility com-
11 pany (as defined in section 2(3) of the
12 Public Utility Holding Company Act
13 (15 U.S.C. 79b(3)) which is attrib-
14 utable to a facility which will qualify
15 as a certified pollution control facility
16 as determined under section 169(d)(1)
17 by striking ‘before January 1, 1976,’
18 and by substituting ‘an identifiable’
19 for ‘a new identifiable.’”

20 (b) ELECTION TO DISREGARD CARRYBACK.—Section
21 172(j) (relating to disregard 5-year carryback for certain
22 net operating losses) is amended by inserting “or
23 (b)(1)(I)” after “(b)(1)(H)” both places it appears.

24 (c) APPLICATION.—In the case of a net operating loss
25 described in section 172(b)(1)(I) of the Internal Revenue

1 Code of 1986 (as added by subsection (a)) for a taxable
2 year ending in 2003, 2004, or 2005, any election made
3 under section 172(j) of such Code (as amended by sub-
4 section (b)) shall be treated as timely made if made before
5 January 1, 2009.

6 **SEC. 1547. CREDIT FOR QUALIFYING POLLUTION CONTROL**
7 **EQUIPMENT.**

8 (a) ALLOWANCE OF QUALIFYING POLLUTION CON-
9 TROL EQUIPMENT CREDIT.—Section 46 (relating to
10 amount of credit), as amended by this Act, is amended
11 by striking “and” at the end of paragraph (4), by striking
12 the period at the end of paragraph (5) and inserting “,
13 and”, and by adding at the end the following new para-
14 graph:

15 “(6) the qualifying pollution control equipment
16 credit.”.

17 (b) AMOUNT OF QUALIFYING POLLUTION CONTROL
18 EQUIPMENT CREDIT.—Subpart E of part IV of sub-
19 chapter A of chapter 1 (relating to rules for computing
20 investment credit), as amended by this Act, is amended
21 by inserting after section 48C the following new section:

22 **“SEC. 48D. QUALIFYING POLLUTION CONTROL EQUIPMENT**
23 **CREDIT.**

24 “(a) IN GENERAL.—For purposes of section 46, the
25 qualifying pollution control equipment credit for any tax-

1 able year is an amount equal to 15 percent of the basis
2 of the qualifying pollution control equipment placed in
3 service at a qualifying facility during such taxable year.

4 “(b) QUALIFYING POLLUTION CONTROL EQUIP-
5 MENT.—For purposes of this section, the term ‘qualifying
6 pollution control equipment’ means any technology in-
7 stalled in or on a qualifying facility to reduce air emissions
8 of any pollutant regulated by the Environmental Protec-
9 tion Agency under the Clean Air Act, including thermal
10 oxidizers, regenerative thermal oxidizers, scrubber sys-
11 tems, evaporative control systems, vapor recovery systems,
12 flair systems, bag houses, cyclones, continuous emissions
13 monitoring systems, and low nitric oxide burners.

14 “(c) QUALIFYING FACILITY.—For purposes of this
15 section, the term ‘qualifying facility’ means any facility
16 which produces not less than 1,000,000 gallons of ethanol
17 during the taxable year.

18 “(d) SPECIAL RULE FOR CERTAIN SUBSIDIZED
19 PROPERTY.—Rules similar to section 48(a)(4) shall apply
20 for purposes of this section.

21 “(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES
22 RULES MADE APPLICABLE.—Rules similar to the rules of
23 subsections (c)(4) and (d) of section 46 (as in effect on
24 the day before the enactment of the Revenue Reconcili-

1 ation Act of 1990) shall apply for purposes of this sub-
2 section.”.

3 (c) RECAPTURE OF CREDIT WHERE EMISSIONS RE-
4 DUCTION OFFSET IS SOLD.—Paragraph (1) of section
5 50(a) is amended by redesignating subparagraph (B) as
6 subparagraph (C) and by inserting after subparagraph (A)
7 the following new subparagraph:

8 “(B) SPECIAL RULE FOR QUALIFYING POL-
9 LUTION CONTROL EQUIPMENT.—For purposes
10 of subparagraph (A), any investment property
11 which is qualifying pollution control equipment
12 (as defined in section 48D(b)) shall cease to be
13 investment credit property with respect to a
14 taxpayer if such taxpayer receives a payment in
15 exchange for a credit for emission reductions
16 attributable to such qualifying pollution control
17 equipment for purposes of an offset require-
18 ment under part D of title I of the Clean Air
19 Act.”.

20 (d) SPECIAL RULE FOR BASIS REDUCTION; RECAP-
21 TURE OF CREDIT.—Paragraph (3) of section 50(c) (relat-
22 ing to basis adjustment to investment credit property), as
23 amended by this Act, is amended by inserting “or quali-
24 fying pollution control equipment credit” after “energy
25 credit”.

1 (e) CONFORMING AMENDMENTS.—

2 (1) Section 49(a)(1)(C), as amended by this
3 Act, is amended by striking “and” at the end of
4 clause (iv), by striking the period at the end of
5 clause (v) and inserting “, and”, and by adding at
6 the end the following new clause:

7 “(vi) the basis of any qualifying pollu-
8 tion control equipment.”

9 (2) The table of sections for subpart E of part
10 IV of subchapter A of chapter 1, as amended by this
11 Act, is amended by inserting after the item relating
12 to section 48C the following new item:

“48D. Qualifying pollution control equipment.”.

13 (f) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to periods after the date of the
15 enactment of this Act, in taxable years ending after such
16 date, under rules similar to the rules of section 48(m) of
17 the Internal Revenue Code of 1986 (as in effect on the
18 day before the date of the enactment of the Revenue Rec-
19 onciliation Act of 1990).

20 **SEC. 1548. CREDIT FOR PRODUCTION OF COAL OWNED BY**
21 **INDIAN TRIBES.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-
23 chapter A of chapter 1 (relating to business-related cred-
24 its), as amended by this Act, is amended by adding at
25 the end the following new section:

1 **“SEC. 45N. CREDIT FOR PRODUCTION OF COAL OWNED BY**
2 **INDIAN TRIBES.**

3 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
4 tion 38, the Indian coal production credit determined
5 under this section for the taxable year is an amount equal
6 to the product of—

7 “(1) the applicable dollar amount for the cal-
8 endar year in which the taxable year begins, and

9 “(2) the number of tons of Indian coal—

10 “(A) the production of which is attrib-
11 utable to the taxpayer (determined under rules
12 similar to the rules under section 29(d)(3)), and

13 “(B) which is sold by the taxpayer to an
14 unrelated person during the taxable year.

15 “(b) INDIAN COAL.—For purposes of this section—

16 “(1) IN GENERAL.—The term ‘Indian coal’
17 means coal which is produced from coal reserves
18 which, on June 14, 2005—

19 “(A) were owned by an Indian tribe, or

20 “(B) were held in trust by the United
21 States for the benefit of an Indian tribe or its
22 members.

23 “(2) INDIAN TRIBE.—For purposes of this sub-
24 section, the term ‘Indian tribe’ has the meaning
25 given such term by section 7871(c)(3)(E)(ii).

26 “(c) OTHER TERMS.—For purposes of this section—

1 “(1) APPLICABLE DOLLAR AMOUNT.—

2 “(A) IN GENERAL.—The term ‘applicable
3 dollar amount’ means—

4 “(i) \$1.50 in the case of calendar
5 years 2006 through 2009, and

6 “(ii) \$2.00 in the case of calendar
7 years beginning after 2009.

8 “(B) INFLATION ADJUSTMENT.—In the
9 case of any calendar year after 2006, each of
10 the dollar amounts under subparagraph (A)
11 shall be equal to the product of such dollar
12 amount and the inflation adjustment factor de-
13 termined under section 45(e)(2)(B) for the cal-
14 endar year, except that such section shall be ap-
15 plied by substituting ‘2005’ for ‘1992’.

16 “(2) UNRELATED PERSON.—The term ‘unre-
17 lated person’ has the same meaning as when such
18 term is used in section 45.

19 “(d) TERMINATION.—This section shall not apply to
20 sales after December 31, 2012.”

21 (b) CREDIT MADE PART OF GENERAL BUSINESS
22 CREDIT.—Subsection (b) of section 38, as amended by
23 this Act, is amended by striking “plus” at the end of para-
24 graph (22), by striking the period at the end of paragraph

1 (23) and inserting “, plus”, and by adding at the end the
2 following new paragraph:

3 “(24) the Indian coal production credit deter-
4 mined under section 45N(a).”.

5 (c) ALLOWANCE AGAINST MINIMUM TAX.—Section
6 38(c)(4) (relating to specified credits) is amended by strik-
7 ing the period at the end of clause (ii) and inserting “,
8 or” and by adding at the end the following:

9 “(iii) the credit determined under sec-
10 tion 45N.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to sales after December 31, 2005.

13 **SEC. 1549. CREDIT FOR REPLACEMENT STOVES MEETING**
14 **ENVIRONMENTAL STANDARDS IN NON-AT-**
15 **TAINMENT AREAS.**

16 (a) IN GENERAL.—Subpart A of part IV of sub-
17 chapter A of chapter 1 (relating to nonrefundable personal
18 credits), as amended by this Act, is amended by inserting
19 after section 25D the following new section:

20 **“SEC. 25E. REPLACEMENT STOVES IN AREAS WITH POOR**
21 **AIR QUALITY.**

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

1 “(1) the qualified stove replacement expendi-
2 tures of the taxpayer for the taxable year, or

3 “(2) \$500 multiplied by the number of non-
4 compliant wood stoves replaced by the taxpayer dur-
5 ing the taxable year.

6 “(b) QUALIFIED STOVE REPLACEMENT EXPENDI-
7 TURES.—For purposes of this section—

8 “(1) IN GENERAL.—The term ‘qualified stove
9 replacement expenditures’ means expenditures made
10 by the taxpayer for the installation of a compliant
11 stove which—

12 “(A) is installed in a dwelling unit which—

13 “(i) is located in the United States in
14 an area which, at the time of the installa-
15 tion, is designated by the Environmental
16 Protection Agency as a non-attainment
17 area for particulate matter less than 2.5
18 micrometers in diameter or a non-attain-
19 ment area for particulate matter less than
20 10 micrometers in diameter, and

21 “(ii) is used as a residence, and

22 “(B) replaces a noncompliant wood stove
23 used in the dwelling unit.

1 Such term includes expenditures for labor costs
2 properly allocable to the onsite preparation, assem-
3 bly, or original installation of the compliant stove.

4 “(2) COMPLIANT STOVE.—The term ‘compliant
5 stove’ means a solid fuel burning stove which meets
6 the requirements set forth in the ‘Standards of Per-
7 formance for Residential Wood Heaters’ issued by
8 the Environmental Protection Agency.

9 “(3) NONCOMPLIANT WOOD STOVE.—The term
10 ‘noncompliant wood stove’ means any wood stove
11 other than a compliant stove.

12 “(c) OTHER RULES.—Rules similar to the rules of
13 paragraphs (3) and (4) of section 25C(d) shall apply for
14 purposes of this section.

15 “(d) BASIS ADJUSTMENT.—If an expenditure to
16 which this section applies results in an increase in basis
17 in any property, the increase shall be reduced by the
18 amount of the credit allowed under this section with re-
19 spect to the expenditure.

20 “(e) TERMINATION.—This section shall not apply to
21 expenditures made after December 31, 2008.”

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subsection (a) of section 1016, as amended
24 by this Act, is amended by striking “and” at the end
25 of paragraph (38), by striking the period at the end

1 of paragraph (39) and inserting “, and”, and by
2 adding at the end the following new paragraph:

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

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

“Sec. 25E. Replacement stoves in areas with poor air quality.”.

10 (c) EFFECTIVE DATES.—The amendments made by
11 this section shall apply to expenditures for stoves pur-
12 chased after the date of the enactment of this Act.

13 **SEC. 1550. EXEMPTION FOR EQUIPMENT FOR TRANS-**
14 **PORTING BULK BEDS OF FARM CROPS FROM**
15 **EXCISE TAX ON RETAIL SALE OF HEAVY**
16 **TRUCKS AND TRAILERS.**

17 (a) IN GENERAL.—Section 4053 of the Internal Rev-
18 enue Code of 1986 (relating to exemptions) is amended
19 by adding at the end the following new paragraph:

20 “(9) BULK BEDS FOR TRANSPORTING FARM
21 CROPS.—Any box, container, receptacle, bin, or
22 other similar article the length of which does not ex-
23 ceed 26 feet, which is mounted or placed on an auto-
24 mobile truck, and which is sold to a person who cer-
25 tifies to the seller that—

1 “(A) such person is actively engaged in the
2 trade or business of farming, and

3 “(B) the primary use of the article is to
4 haul to farms (and on farms) farm crops grown
5 in connection with such trade or business.”.

6 (b) RECAPTURE OF TAX UPON RESALE OR NON-
7 EXEMPT USE.—Section 4052 (relating to definitions and
8 special rules) is amended by redesignating subsection (g)
9 as subsection (h) and by inserting after subsection (f) the
10 following new subsection:

11 “(g) IMPOSITION OF TAX ON SALES, ETC., WITHIN
12 2 YEARS OF BULK BEDS FOR TRANSPORTING FARM
13 CROPS PURCHASED TAX-FREE.—

14 “(1) IN GENERAL.—If—

15 “(A) no tax was imposed under section
16 4051 on the first retail sale of any article de-
17 scribed in section 4053(9) by reason of its ex-
18 empt use, and

19 “(B) within 2 years after the date of such
20 first retail sale, such article is resold by the
21 purchaser or such purchaser makes a substan-
22 tial nonexempt use of such article, then such
23 sale or use of such article by such purchaser
24 shall be treated as the first retail sale of such

1 article for a price equal to its fair market value
2 at the time of such sale or use.

3 “(2) EXEMPT USE.—For purposes of this sub-
4 section, the term ‘exempt use’ means any use of an
5 article described in section 4053(9) if the first retail
6 sale of such article is not taxable under section 4051
7 by reason of such use.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to sales after September 30, 2005.

10 **SEC. 1551. NATIONAL ACADEMY OF SCIENCES STUDY AND**
11 **REPORT.**

12 (a) STUDY.—Not later than 60 days after the date
13 of the enactment of this Act, the Secretary of the Treasury
14 shall enter into an agreement with the National Academy
15 of Sciences under which the National Academy of Sciences
16 shall conduct a study to define and evaluate the health,
17 environmental, security, and infrastructure external costs
18 and benefits associated with the production and consump-
19 tion of energy that are not or may not be fully incor-
20 porated into the market price of such energy, or into the
21 Federal tax or fee or other applicable revenue measure re-
22 lated to such production or consumption.

23 (b) REPORT.—Not later than 2 years after the date
24 on which the agreement under subsection (a) is entered
25 into, the National Academy of Sciences shall submit to

1 Congress a report on the study conducted under sub-
2 section (a).

3 **Subtitle F—Revenue Raising**
4 **Provisions**

5 **SEC. 1561. TREATMENT OF KEROSENE FOR USE IN AVIA-**
6 **TION.**

7 (a) ALL KEROSENE TAXED AT HIGHEST RATE.—

8 (1) IN GENERAL.—Section 4081(a)(2)(A) (re-
9 lating to rates of tax) is amended by adding “and”
10 at the end of clause (ii), by striking “, and” at the
11 end of clause (iii) and inserting a period, and by
12 striking clause (iv).

13 (2) EXCEPTION FOR USE IN AVIATION.—Sub-
14 paragraph (C) of section 4081(a)(2) is amended to
15 read as follows:

16 “(C) TAXES IMPOSED ON FUEL USED IN
17 AVIATION.—In the case of kerosene which is re-
18 moved from any refinery or terminal directly
19 into the fuel tank of an aircraft for use in avia-
20 tion, the rate of tax under subparagraph
21 (A)(iii) shall be—

22 “(i) in the case of use for commercial
23 aviation by a person registered for such
24 use under section 4101, 4.3 cents per gal-
25 lon, and

1 “(ii) in the case of use for aviation
2 not described in clause (i), 21.8 cents per
3 gallon.”.

4 (3) APPLICABLE RATE IN CASE OF CERTAIN RE-
5 FUELER TRUCKS, TANKERS, AND TANK WAGONS.—
6 Section 4081(a)(3) (relating to certain refueler
7 trucks, tankers, and tank wagons treated as termi-
8 nals) is amended—

9 (A) by striking “a secured area of” in sub-
10 paragraph (A)(i), and

11 (B) by adding at the end the following new
12 subparagraph:

13 “(D) APPLICABLE RATE.—For purposes of
14 paragraph (2)(C), in the case of any kerosene
15 treated as removed from a terminal by reason
16 of this paragraph—

17 “(i) the rate of tax specified in para-
18 graph (2)(C)(i) in the case of use described
19 in such paragraph shall apply if such ter-
20 minal is located within a secured area of
21 an airport, and

22 “(ii) the rate of tax specified in para-
23 graph (2)(C)(ii) shall apply in all other
24 cases.”.

25 (4) CONFORMING AMENDMENTS.—

1 (A) Sections 4081(a)(3)(A) and 4082(b)
2 are amended by striking “aviation-grade” each
3 place it appears.

4 (B) Section 4081(a)(4) is amended by
5 striking “paragraph (2)(C)” and inserting
6 “paragraph (2)(C)(i)”.

7 (C) The heading for paragraph (4) of sec-
8 tion 4081(a) is amended by striking “AVIATION-
9 GRADE”.

10 (D) Section 4081(d)(2) is amended by
11 striking so much as precedes subparagraph (A)
12 and inserting the following:

13 “(2) AVIATION FUELS.—The rates of tax speci-
14 fied in subsections (a)(2)(A)(ii) and (a)(2)(C)(ii)
15 shall be 4.3 cents per gallon—”.

16 (E) Subsection (e) of section 4082 is
17 amended—

18 (i) by striking “aviation-grade”,

19 (ii) by striking “section
20 4081(a)(2)(A)(iv)” and inserting “section
21 4081(a)(2)(A)(iii)”, and

22 (iii) by striking “Aviation-Grade Ker-
23 osene” in the heading thereof and inserting
24 “Kerosene Removed Into an Aircraft”.

1 (b) REDUCED RATE FOR USE OF CERTAIN LIQUIDS
2 IN AVIATION.—

3 (1) IN GENERAL.—Subsection (c) of section
4 4041 (relating to imposition of tax) is amended—

5 (A) by striking “aviation-grade kerosene”
6 in paragraph (1) and inserting “any liquid for
7 use as a fuel other than aviation gasoline”,

8 (B) by striking “aviation-grade kerosene”
9 in paragraph (2) and inserting “liquid for use
10 as a fuel other than aviation gasoline”,

11 (C) by striking paragraph (3) and insert-
12 ing the following new paragraph:

13 “(3) RATE OF TAX.—The rate of tax imposed
14 by this subsection shall be 21.8 cents per gallon (4.3
15 cents per gallon with respect to any sale or use for
16 commercial aviation).”, and

17 (D) by striking “Aviation-Grade Kerosene”
18 in the heading thereof and inserting “Certain
19 Liquids Used as a Fuel in Aviation”.

20 (2) PARTIAL REFUND OF FULL RATE.—

21 (A) IN GENERAL.—Paragraph (2) of sec-
22 tion 6427(l) (relating to nontaxable uses of die-
23 sel fuel, kerosene and aviation fuel) is amended
24 to read as follows:

1 “(2) NONTAXABLE USE.—For purposes of this
2 subsection, the term ‘nontaxable use’ means any use
3 which is exempt from the tax imposed by section
4 4041(a)(1) other than by reason of a prior imposi-
5 tion of tax.”.

6 (B) REFUNDS FOR NONCOMMERCIAL AVIA-
7 TION.—Section 6427(l) (relating to nontaxable
8 uses of diesel fuel, kerosene and aviation fuel)
9 is amended by redesignating paragraph (5) as
10 paragraph (6) and by inserting after paragraph
11 (4) the following new paragraph:

12 “(5) REFUNDS FOR KEROSENE USED IN NON-
13 COMMERCIAL AVIATION.—

14 “(A) IN GENERAL.—In the case of ker-
15 osene used in aviation not described in para-
16 graph (4)(A) (other than any use which is ex-
17 empt from the tax imposed by section 4041(c)
18 other than by reason of a prior imposition of
19 tax), paragraph (1) shall not apply to so much
20 of the tax imposed by section 4081 as is attrib-
21 utable to—

22 “(i) the Leaking Underground Stor-
23 age Tank Trust Fund financing rate im-
24 posed by such section, and

1 “(ii) so much of the rate of tax speci-
2 fied in section 4081(a)(2)(A)(iii) as does
3 not exceed the rate specified in section
4 4081(a)(2)(C)(ii).

5 “(B) PAYMENT TO ULTIMATE, REG-
6 ISTERED VENDOR.—The amount which would
7 be paid under paragraph (1) with respect to
8 any kerosene shall be paid only to the ultimate
9 vendor of such kerosene. A payment shall be
10 made to such vendor if such vendor—

11 “(i) is registered under section 4101,
12 and

13 “(ii) meets the requirements of sub-
14 paragraph (A), (B), or (D) of section
15 6416(a)(1).”.

16 (3) CONFORMING AMENDMENTS.—

17 (A) Section 4041(a)(1)(B) is amended by
18 striking the last sentence.

19 (B) The heading for subsection (l) of sec-
20 tion 6427 is amended by striking “, Kerosene
21 and Aviation Fuel” and inserting “and Ker-
22 osene”.

23 (C) Section 4082(d)(2)(B) is amended by
24 striking “section 6427(l)(5)(B)” and inserting
25 “section 6427(l)(6)(B)”.

1 (D) Section 6427(i)(4)(A) is amended—

2 (i) by striking “paragraph (4)(B) or
3 (5)” both places it appears and inserting
4 “paragraph (4)(B), (5), or (6)”, and

5 (ii) by striking “subsection (b)(4) and
6 subsection (l)(5)” in the last sentence and
7 inserting “subsections (b)(4), (l)(5), and
8 (l)(6)”.

9 (E) Paragraph (4) of section 6427(l) is
10 amended—

11 (i) by striking “aviation-grade” in
12 subparagraph (A),

13 (ii) by striking “section
14 4081(a)(2)(A)(iv)” and inserting “section
15 4081(a)(2)(iii)”,

16 (iii) by striking “aviation-grade ker-
17 osene” in subparagraph (B) and inserting
18 “kerosene used in commercial aviation as
19 described in subparagraph (A)”, and

20 (iv) by striking “AVIATION-GRADE
21 KEROSENE” in the heading thereof and in-
22 sserting “KEROSENE USED IN COMMERCIAL
23 AVIATION”.

24 (F) Section 6427(l)(6)(B), as redesignated
25 by paragraph (2)(B), is amended by striking

1 “aviation-grade kerosene” and inserting “ker-
2 osene used in aviation”.

3 (c) TRANSFERS FROM HIGHWAY TRUST FUND OF
4 TAXES ON FUELS USED IN AVIATION TO AIRPORT AND
5 AIRWAY TRUST FUND.—

6 (1) IN GENERAL.—Section 9503(c) (relating to
7 expenditures from Highway Trust Fund) is amended
8 by adding at the end the following new paragraph:

9 “(7) TRANSFERS FROM THE TRUST FUND FOR
10 CERTAIN AVIATION FUEL TAXES.—The Secretary
11 shall pay at least monthly from the Highway Trust
12 Fund into the Airport and Airway Trust Fund
13 amounts (as determined by the Secretary) equivalent
14 to the taxes received on or after October 1, 2005,
15 and before October 1, 2011, under section 4081 with
16 respect to so much of the rate of tax as does not
17 exceed—

18 “(A) 4.3 cents per gallon of kerosene with
19 respect to which a payment has been made by
20 the Secretary under section 6427(1)(4), and

21 “(B) 21.8 cents per gallon of kerosene
22 with respect to which a payment has been made
23 by the Secretary under section 6427(1)(5).

24 Transfers under the preceding sentence shall be
25 made on the basis of estimates by the Secretary, and

1 proper adjustments shall be made in the amounts
2 subsequently transferred to the extent prior esti-
3 mates were in excess of or less than the amounts re-
4 quired to be transferred.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 9502(a) is amended by strik-
7 ing “appropriated or credited to the Airport
8 and Airway Trust Fund as provided in this sec-
9 tion or section 9602(b)” and inserting “appro-
10 priated, credited, or paid into the Airport and
11 Airway Trust Fund as provided in this section,
12 section 9503(c)(7), or section 9602(b)”.

13 (B) Section 9502(b)(1) is amended—

14 (i) by striking “subsections (c) and
15 (e) of section 4041” in subparagraph (A)
16 and inserting “section 4041(c)”, and

17 (ii) by striking “and aviation-grade
18 kerosene” in subparagraph (C) and insert-
19 ing “and kerosene to the extent attrib-
20 utable to the rate specified in section
21 4081(a)(2)(C)”.

22 (C) Section 9503(b) is amended by strik-
23 ing paragraph (3).

24 (d) CERTAIN REFUNDS NOT TRANSFERRED FROM
25 AIRPORT AND AIRWAY TRUST FUND.—Section

1 9502(d)(2) (relating to transfers from Airport and Airway
2 Trust Fund on account of certain refunds) is amended by
3 inserting “(other than subsections (l)(4) and (l)(5) there-
4 of)” after “or 6427 (relating to fuels not used for taxable
5 purposes)”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to fuels or liquids removed, en-
8 tered, or sold after September 30, 2005.

9 **SEC. 1562. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS**
10 **WITH RESPECT TO FARMING.**

11 (a) IN GENERAL.—Subparagraph (A) of section
12 6427(l)(6) (relating to registered vendors to administer
13 claims for refund of diesel fuel or kerosene sold to farmers
14 and State and local governments), as redesignated by sec-
15 tion 1561, is amended to read as follows:

16 “(A) IN GENERAL.—Paragraph (1) shall
17 not apply to diesel fuel or kerosene used by a
18 State or local government.”.

19 (b) CONFORMING AMENDMENT.—The heading of
20 paragraph (6) of section 6427(l), as so redesignated, is
21 amended by striking “FARMERS AND”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to sales after September 30, 2005.

1 **SEC. 1563. REFUNDS OF EXCISE TAXES ON EXEMPT SALES**
2 **OF FUEL BY CREDIT CARD.**

3 (a) REGISTRATION OF PERSON EXTENDING CREDIT
4 ON CERTAIN EXEMPT SALES OF FUEL.—Section 4101(a)
5 (relating to registration) is amended by adding at the end
6 the following new paragraph:

7 “(4) REGISTRATION OF PERSONS EXTENDING
8 CREDIT ON CERTAIN EXEMPT SALES OF FUEL.—The
9 Secretary shall require registration by any person
10 which—

11 “(A) extends credit by credit card to any
12 ultimate purchaser described in subparagraph
13 (C) or (D) of section 6416(b)(2) for the pur-
14 chase of taxable fuel upon which tax has been
15 imposed under section 4041 or 4081, and

16 “(B) does not collect the amount of such
17 tax from such ultimate purchaser.”.

18 (b) REFUNDS OF TAX ON GASOLINE.—

19 (1) IN GENERAL.—Paragraph (4) of section
20 6416(a) (relating to condition to allowance) is
21 amended—

22 (A) by inserting “except as provided in
23 subparagraph (B),” after “For purposes of this
24 subsection,” in subparagraph (A),

1 (B) by redesignating subparagraph (B) as
2 subparagraph (C) and by inserting after sub-
3 paragraph (A) the following new subparagraph:

4 “(B) CREDIT CARD ISSUER.—For purposes
5 of this subsection, if the purchase of gasoline
6 described in subparagraph (A) (determined
7 without regard to the registration status of the
8 ultimate vendor) is made by means of a credit
9 card issued to the ultimate purchaser, para-
10 graph (1) shall not apply and the person ex-
11 tending the credit to the ultimate purchaser
12 shall be treated as the person (and the only
13 person) who paid the tax, but only if such
14 person—

15 “(i) is registered under section
16 4101(a)(4), and

17 “(ii) has established, under regula-
18 tions prescribed by the Secretary, that
19 such person—

20 “(I) has not collected the amount
21 of the tax from the person who pur-
22 chased such article, or

23 “(II) has obtained the written
24 consent from the ultimate purchaser

1 to the allowance of the credit or re-
2 fund, and

3 “(iii) has so established that such
4 person—

5 “(I) has repaid or agreed to
6 repay the amount of the tax to the ul-
7 timate vendor,

8 “(II) has obtained the written
9 consent of the ultimate vendor to the
10 allowance of the credit or refund, or

11 “(III) has otherwise made ar-
12 rangements which directly or indi-
13 rectly assure the ultimate vendor of
14 reimbursement of such tax.

15 If clause (i), (ii), or (iii) is not met by such per-
16 son extending the credit to the ultimate pur-
17 chaser, then such person shall collect an
18 amount equal to the tax from the ultimate pur-
19 chaser and only such ultimate purchaser may
20 claim such credit or refund.”,

21 (C) by striking “subparagraph (A)” in
22 subparagraph (C), as redesignated by para-
23 graph (2), and inserting “subparagraph (A) or
24 (B)”,

1 (D) by inserting “or credit card issuer”
2 after “vendor” in subparagraph (C), as so re-
3 designated, and

4 (E) by inserting “OR CREDIT CARD
5 ISSUER” after “VENDOR” in the heading there-
6 of.

7 (2) CONFORMING AMENDMENT.—Section
8 6416(b)(2) is amended by adding at the end the fol-
9 lowing new sentence: “Subparagraphs (C) and (D)
10 shall not apply in the case of any tax imposed on
11 gasoline under section 4081 if the requirements of
12 subsection (a)(4) are not met.”

13 (c) DIESEL FUEL OR KEROSENE.—Paragraph (6) of
14 section 6427(l) (relating to nontaxable uses of diesel fuel
15 and kerosene), as redesignated by section 1561, is
16 amended—

17 (1) by striking “The amount” in subparagraph
18 (C) and inserting “Except as provided in subpara-
19 graph (D), the amount”, and

20 (2) by adding at the end the following new sub-
21 paragraph:

22 “(D) CREDIT CARD ISSUER.—For purposes
23 of this paragraph, if the purchase of any fuel
24 described in subparagraph (A) (determined
25 without regard to the registration status of the

1 ultimate vendor) is made by means of a credit
2 card issued to the ultimate purchaser, the Sec-
3 retary shall pay to the person extending the
4 credit to the ultimate purchaser the amount
5 which would have been paid under paragraph
6 (1) (but for subparagraph (A)), but only if such
7 person meets the requirements of clauses (i),
8 (ii), and (iii) of section 6416(a)(4)(B). If such
9 clause (i), (ii), or (iii) is not met by such person
10 extending the credit to the ultimate purchaser,
11 then such person shall collect an amount equal
12 to the tax from the ultimate purchaser and only
13 such ultimate purchaser may claim such
14 amount.”.

15 (d) CONFORMING PENALTY AMENDMENTS.—

16 (1) Section 6206 (relating to special rules appli-
17 cable to excessive claims under sections 6420, 6421,
18 and 6427) is amended—

19 (A) by striking “Any portion” in the first
20 sentence and inserting “Any portion of a refund
21 made under section 6416(a)(4) and any por-
22 tion”,

23 (B) by striking “payments under sections
24 6420” in the first sentence and inserting “re-

1 funds under section 6416(a)(4) and payments
2 under sections 6420”,

3 (C) by striking “section 6420” in the sec-
4 ond sentence and inserting “section 6416(a)(4),
5 6420”, and

6 (D) by striking “**SECTIONS 6420, 6421,**
7 **AND 6427**” in the heading thereof and inserting
8 “**CERTAIN SECTIONS**”.

9 (2) Section 6675(a) is amended by inserting
10 “section 6416(a)(4) (relating to certain sales of gas-
11 oline),” after “made under”.

12 (3) Section 6675(b)(1) is amended by inserting
13 “6416(a)(4),” after “under section”.

14 (4) The item relating to section 6206 in the
15 table of sections for subchapter A of chapter 63 is
16 amended by striking “sections 6420, 6421, and
17 6427” and inserting “certain sections”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to sales after December 31, 2005.

20 **SEC. 1564. ADDITIONAL REQUIREMENT FOR EXEMPT PUR-**
21 **CHASES.**

22 (a) STATE AND LOCAL GOVERNMENTS.—

23 (1) Subparagraph (C) of section 6416(b)(2) (re-
24 lating to specified uses and resales) is amended to
25 read as follows:

1 “(C) sold to a State or local government
2 for the exclusive use of a State or local govern-
3 ment (as defined in section 4221(d)(4) and cer-
4 tified as such by the State) or sold to a quali-
5 fied volunteer fire department (as defined in
6 section 150(e)(2) and certified as such by the
7 State) for its exclusive use;”.

8 (2) Section 4041(g)(2) (relating to other ex-
9 emptions) is amended by striking “or the District of
10 Columbia” and inserting “the District of Columbia,
11 or a qualified volunteer fire department (as defined
12 in section 150(e)(2)) (and certified as such by the
13 State or the District of Columbia)”.

14 (b) NONPROFIT EDUCATIONAL ORGANIZATIONS.—

15 (1) Section 6416(b)(2)(D) is amended by in-
16 serting “(as defined in section 4221(d)(5) and cer-
17 tified to be in good standing by the State in which
18 such organization is providing educational services)”
19 after “organization”.

20 (2) Section 4041(g)(4) is amended—

21 (A) by inserting “(certified to be in good
22 standing by the State in which such organiza-
23 tion is providing educational services)” after
24 “organization” the first place it appears, and

1 (B) by striking “use by a” and inserting
2 “use by such a”.

3 (c) NONAPPLICATION OF CERTIFICATION REQUIRE-
4 MENTS FOR THE REFUND OF CERTAIN TAXES.—Section
5 6416(b)(2) is amended by adding at the end the following
6 new sentence: “With respect to any tax paid under sub-
7 chapter D of chapter 32, the certification requirements
8 under subparagraphs (C) and (D) shall not apply.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to sales after December 31, 2005.

11 **SEC. 1565. REREGISTRATION IN EVENT OF CHANGE IN**
12 **OWNERSHIP.**

13 (a) IN GENERAL.—Section 4101(a) (relating to reg-
14 istration) is amended by adding at the end the following
15 new paragraph:

16 “(4) REREGISTRATION IN EVENT OF CHANGE
17 IN OWNERSHIP.—Under regulations prescribed by
18 the Secretary, a person (other than a corporation
19 the stock of which is regularly traded on an estab-
20 lished securities market) shall be required to rereg-
21 ister under this section if after a transaction (or se-
22 ries of related transactions) more than 50 percent of
23 ownership interests in, or assets of, such person are
24 held by persons other than persons (or persons re-
25 lated thereto) who held more than 50 percent of

1 such interests or assets before the transaction (or
2 series of related transactions).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) CIVIL PENALTY.—Section 6719 (relating to
5 failure to register) is amended—

6 (A) by inserting “or reregister” after “reg-
7 ister” each place it appears,

8 (B) by inserting “OR REREGISTER” after
9 “REGISTER” in the heading for subsection (a),
10 and

11 (C) by inserting “**OR REREGISTER**” after
12 “**REGISTER**” in the heading thereof.

13 (2) CRIMINAL PENALTY.—Section 7232 (relat-
14 ing to failure to register under section 4101, false
15 representations of registration status, etc.) is
16 amended—

17 (A) by inserting “or reregister” after “reg-
18 ister”,

19 (B) by inserting “or reregistration” after
20 “registration”, and

21 (C) by inserting “**OR REREGISTER**” after
22 “**REGISTER**” in the heading thereof.

23 (3) ADDITIONAL CIVIL PENALTY.—Section
24 7272 (relating to penalty for failure to register) is
25 amended—

1 (A) by inserting “or reregister” after “fail-
2 ure to register” in subsection (a),

3 (B) by inserting “**OR REREGISTER**” after
4 “**REGISTER**” in the heading thereof.

5 (3) CLERICAL AMENDMENTS.—The item relat-
6 ing to section 6719 in the table of sections for part
7 I of subchapter B of chapter 68, the item relating
8 to section 7232 in the table of sections for part II
9 of subchapter A of chapter 75, and the item relating
10 to section 7272 in the table of sections for sub-
11 chapter B of chapter 75 are each amended by insert-
12 ing “or reregister” after “register”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to actions, or failures to act, after
15 the date of the enactment of this Act.

16 **SEC. 1566. TREATMENT OF DEEP-DRAFT VESSELS.**

17 (a) IN GENERAL.—On and after the date of the en-
18 actment of this Act, the Secretary of the Treasury shall
19 require that a vessel described in section 4042(c)(1) of the
20 Internal Revenue Code of 1986 be considered a vessel for
21 purposes of the registration of the operator of such vessel
22 under section 4101 of such Code, unless such operator
23 uses such vessel exclusively for purposes of the entry of
24 taxable fuel.

1 (b) EXEMPTION FOR DOMESTIC BULK TRANSFERS
2 BY DEEP-DRAFT VESSELS.—

3 (1) IN GENERAL.—Subparagraph (B) of section
4 4081(a)(1) (relating to tax on removal, entry, or
5 sale) is amended to read as follows:

6 “(B) EXEMPTION FOR BULK TRANSFERS
7 TO REGISTERED TERMINALS OR REFINERIES.—

8 “(i) IN GENERAL.—The tax imposed
9 by this paragraph shall not apply to any
10 removal or entry of a taxable fuel trans-
11 ferred in bulk by pipeline or vessel to a ter-
12 minal or refinery if the person removing or
13 entering the taxable fuel, the operator of
14 such pipeline or vessel (except as provided
15 in clause (ii)), and the operator of such
16 terminal or refinery are registered under
17 section 4101.

18 “(ii) NONAPPLICATION OF REGISTRA-
19 TION TO VESSEL OPERATORS ENTERING BY
20 DEEP-DRAFT VESSEL.—For purposes of
21 clause (i), a vessel operator is not required
22 to be registered with respect to the entry
23 of a taxable fuel transferred in bulk by a
24 vessel described in section 4042(c)(1).”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall take effect on the date of the
3 enactment of this Act.

4 **SEC. 1567. RECONCILIATION OF ON-LOADED CARGO TO EN-**
5 **TERED CARGO.**

6 (a) IN GENERAL.—Subsection (a) of section 343 of
7 the Trade Act of 2002 is amended by inserting at the end
8 the following new paragraph:

9 “(4) TRANSMISSION OF DATA.—Pursuant to
10 paragraph (2), not later than 1 year after the date
11 of enactment of this paragraph, the Secretary of
12 Homeland Security, after consultation with the Sec-
13 retary of the Treasury, shall establish an electronic
14 data interchange system through which the United
15 States Customs and Border Protection shall trans-
16 mit to the Internal Revenue Service information per-
17 taining to cargoes of any taxable fuel (as defined in
18 section 4083 of the Internal Revenue Code of 1986)
19 that the United States Customs and Border Protec-
20 tion has obtained electronically under its regulations
21 adopted in accordance with paragraph (1). For this
22 purpose, not later than 1 year after the date of en-
23 actment of this paragraph, all filers of required
24 cargo information for such taxable fuels (as so de-
25 fined) must provide such information to the United

1 States Customs and Border Protection through such
2 electronic data interchange system.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 1568. TAXATION OF GASOLINE BLENDSTOCKS AND**
7 **KEROSENE.**

8 With respect to fuel entered or removed after Sep-
9 tember 30, 2005, the Secretary of the Treasury shall, in
10 applying section 4083 of the Internal Revenue Code of
11 1986—

12 (1) prohibit the nonbulk entry or removal of
13 any gasoline blend stock without the imposition of
14 tax under section 4081 of such Code, and

15 (2) shall not exclude mineral spirits from the
16 definition of kerosene.

17 **SEC. 1569. NONAPPLICATION OF EXPORT EXEMPTION TO**
18 **DELIVERY OF FUEL TO MOTOR VEHICLES RE-**
19 **MOVED FROM UNITED STATES.**

20 (a) IN GENERAL.—Section 4221(d)(2) (defining ex-
21 port) is amended by adding at the end the following new
22 sentence: “Such term does not include the delivery of a
23 taxable fuel (as defined in section 4083(a)(1)) into a fuel
24 tank of a motor vehicle which is shipped or driven out
25 of the United States.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 4041(g) (relating to other exemp-
3 tions) is amended by adding at the end the following
4 new sentence: “Paragraph (3) shall not apply to the
5 sale of a liquid for delivery into a fuel tank of a
6 motor vehicle which is shipped or driven out of the
7 United States.”.

8 (2) Clause (iv) of section 4081(a)(1)(A) (relat-
9 ing to tax on removal, entry, or sale) is amended by
10 inserting “or at a duty-free sales enterprise (as de-
11 fined in section 555(b)(8) of the Tariff Act of
12 1930)” after “section 4101”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to sales or deliveries made after
15 the date of the enactment of this Act.

16 **SEC. 1570. PENALTY WITH RESPECT TO CERTAIN ADULTER-**
17 **ATED FUELS.**

18 (a) IN GENERAL.—Part I of subchapter B of chapter
19 68 (relating to assessable penalties) is amended by adding
20 at the end the following new section:

21 **“SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADUL-**
22 **TERATED FUELS.**

23 “(a) IN GENERAL.—Any person who knowingly
24 transfers for resale, sells for resale, or holds out for resale
25 any liquid for use in a diesel-powered highway vehicle or

1 a diesel-powered train which does not meet applicable
2 EPA regulations (as defined in section 45H(c)(3)), shall
3 pay a penalty of \$10,000 for each such transfer, sale, or
4 holding out for resale, in addition to the tax on such liquid
5 (if any).

6 “(b) PENALTY IN THE CASE OF RETAILERS.—Any
7 person who knowingly holds out for sale (other than for
8 resale) any liquid described in subsection (a), shall pay
9 a penalty of \$10,000 for each such holding out for sale,
10 in addition to the tax on such liquid (if any).”.

11 (b) DEDICATION OF REVENUE.—Paragraph (5) of
12 section 9503(b) (relating to certain penalties) is amended
13 by inserting “6720A,” after “6719,”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for part I of subchapter B of chapter 68 is amended by
16 adding at the end the following new item:

“Sec. 6720A. Penalty with respect to certain adulterated fuels.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to any transfer, sale, or holding
19 out for sale or resale occurring after the date of the enact-
20 ment of this Act.

21 **SEC. 1571. OIL SPILL LIABILITY TRUST FUND FINANCING**
22 **RATE.**

23 Section 4611(f) (relating to application of oil spill li-
24 ability trust fund financing rate) is amended to read as
25 follows:

1 “(f) APPLICATION OF OIL SPILL LIABILITY TRUST
2 FUND FINANCING RATE.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graphs (2) and (3), the Oil Spill Liability Trust
5 Fund financing rate under subsection (c) shall apply
6 on and after April 1, 2007, or if later, the date
7 which is 30 days after the last day of any calendar
8 quarter for which the Secretary estimates that, as of
9 the close of that quarter, the unobligated balance in
10 the Oil Spill Liability Trust Fund is less than
11 \$2,000,000,000.

12 “(2) FUND BALANCE.—The Oil Spill Liability
13 Trust Fund financing rate shall not apply during a
14 calendar quarter if the Secretary estimates that, as
15 of the close of the preceding calendar quarter, the
16 unobligated balance in the Oil Spill Liability Trust
17 Fund exceeds \$3,000,000,000.

18 “(3) TERMINATION.—The Oil Spill Liability
19 Trust Fund financing rate shall not apply after De-
20 cember 31, 2014.”.

21 **SEC. 1572. EXTENSION OF LEAKING UNDERGROUND STOR-**
22 **AGE TANK TRUST FUND FINANCING RATE.**

23 (a) IN GENERAL.—Paragraph (3) of section 4081(d)
24 (relating to Leaking Underground Storage Tank Trust

1 Fund financing rate) is amended by striking “2005” and
2 inserting “2011”.

3 (b) APPLICATION OF TAX ON DYED FUEL.—

4 (1) IN GENERAL.—Section 4082(a) (relating to
5 exemptions for diesel fuel and kerosene) is amended
6 by inserting “(other than such tax at the Leaking
7 Underground Storage Tank Trust Fund financing
8 rate)” after “section 4081”.

9 (2) NO REFUND.—Section 6427(l)(1) is amend-
10 ed by adding at the end the following new sentence:
11 “The preceding sentence shall not apply to so much
12 of the tax imposed by section 4081 on dyed fuel de-
13 scribed in section 4082(a) as is attributable to the
14 Leaking Underground Storage Tank Trust Fund fi-
15 nancing rate imposed by such section.”.

16 (c) CERTAIN REFUNDS AND CREDITS NOT CHARGED
17 TO LUST TRUST FUND.—Subsection (c) of section 9508
18 (relating to Leaking Underground Storage Tank Trust
19 Fund) is amended to read as follows:

20 “(c) EXPENDITURES.—Amounts in the Leaking Un-
21 derground Storage Tank Trust Fund shall be available,
22 as provided in appropriation Acts, only for purposes of
23 making expenditures to carry out section 9003(h) of the
24 Solid Waste Disposal Act as in effect on the date of the

1 enactment of the Superfund Amendments and Reauthor-
2 ization Act of 1986.”.

3 (d) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall take effect on October 1, 2005.

7 (2) APPLICATION OF TAX ON DYED FUEL.—The
8 amendment made by subsection (b) shall apply to
9 fuel entered, removed, or sold after December 31,
10 2005.