

**Union Calendar No. 41**108<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 1531****[Report No. 108-67]**

To amend the Internal Revenue Code of 1986 to enhance energy conservation and to provide for reliability and diversity in the energy supply for the American people, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

APRIL 1, 2003

Mr. MCCREERY introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 9, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on April 1, 2003]

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**A BILL**

To amend the Internal Revenue Code of 1986 to enhance energy conservation and to provide for reliability and diversity in the energy supply for the American people, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Energy Tax Policy Act of 2003”.*

4 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*  
 5 *expressly provided, whenever in this Act an amendment or*  
 6 *repeal is expressed in terms of an amendment to, or repeal*  
 7 *of, a section or other provision, the reference shall be consid-*  
 8 *ered to be made to a section or other provision of the Inter-*  
 9 *nal Revenue Code of 1986.*

10 (c) *TABLE OF CONTENTS.*—

*Sec. 1. Short title.*

**TITLE I—CONSERVATION**

*Sec. 101. Credit for residential solar energy property.*

*Sec. 102. Extension and expansion of credit for electricity produced from renewable resources.*

*Sec. 103. Credit for qualified fuel cell power plants.*

*Sec. 104. Credit for energy efficiency improvements to existing homes.*

*Sec. 105. Business credit for construction of new energy efficient home.*

*Sec. 106. Energy credit for combined heat and power system property.*

*Sec. 107. New nonrefundable personal credits allowed against regular and minimum taxes.*

*Sec. 108. Repeal of 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in general fund.*

*Sec. 109. Reduced motor fuel excise tax on certain mixtures of diesel fuel.*

*Sec. 110. Repeal of phaseouts for qualified electric vehicle credit and deduction for clean fuel-vehicles.*

*Sec. 111. Alternative motor vehicle credit.*

**TITLE II—RELIABILITY**

*Sec. 201. Natural gas gathering lines treated as 7-year property.*

*Sec. 202. Natural gas distribution lines treated as 15-year property.*

*Sec. 203. Electric transmission property treated as 15-year property.*

*Sec. 204. Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations.*

*Sec. 205. Credit for production of low sulfur diesel fuel.*

*Sec. 206. Determination of small refiner exception to oil depletion deduction.*

*Sec. 207. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.*

*Sec. 208. Modifications to special rules for nuclear decommissioning costs.*

*Sec. 209. Treatment of certain income of cooperatives.*

*Sec. 210. Arbitrage rules not to apply to prepayments for natural gas.*

*Sec. 211. Prepayment of premium liability for coal industry health benefits.*

## TITLE III—PRODUCTION

Sec. 301. Oil and gas from marginal wells.

Sec. 302. Temporary suspension of limitation based on 65 percent of taxable income and extension of suspension of taxable income limit with respect to marginal production.

Sec. 303. Amortization of delay rental payments.

Sec. 304. Amortization of geological and geophysical expenditures.

Sec. 305. Extension and modification of credit for producing fuel from a non-conventional source.

Sec. 306. Business related energy credits allowed against regular and minimum tax.

Sec. 307. Temporary repeal of alternative minimum tax preference for intangible drilling costs.

Sec. 308. Allowance of enhanced recovery credit against the alternative minimum tax.

## TITLE IV—CORPORATE EXPATRIATION

Sec. 401. Tax treatment of corporate expatriation.

Sec. 402. Expressing the sense of the Congress that tax reform is needed to address the issue of corporate expatriation.

1                   **TITLE I—CONSERVATION**2                   **SEC. 101. CREDIT FOR RESIDENTIAL SOLAR ENERGY PROP-**3                                   **ERTY.**

4                   (a) *IN GENERAL.*—Subpart A of part IV of subchapter  
5 *A* of chapter 1 (relating to nonrefundable personal credits)  
6 *is amended by inserting after section 25B the following new*  
7 *section:*

8                   **“SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.**

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

13                                   “(1) *15 percent of the qualified photovoltaic*  
14 *property expenditures made by the taxpayer during*  
15 *such year, and*

1           “(2) 15 percent of the qualified solar water heat-  
2           ing property expenditures made by the taxpayer dur-  
3           ing the taxable year.

4           “(b) *LIMITATIONS.*—

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

7           “(A) \$2,000 for each system of property de-  
8           scribed in subsection (c)(1), and

9           “(B) \$2,000 for each system of property de-  
10          scribed in subsection (c)(2).

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

14          “(A) *in the case of solar water heating*  
15          *equipment, such equipment is certified for per-*  
16          *formance and safety by the non-profit Solar Rat-*  
17          *ing Certification Corporation or a comparable*  
18          *entity endorsed by the government of the State in*  
19          *which such property is installed, and*

20          “(B) *in the case of a photovoltaic system,*  
21          *such system meets appropriate fire and electric*  
22          *code requirements.*

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

24          “(1) *QUALIFIED SOLAR WATER HEATING PROP-*  
25          *ERTY EXPENDITURE.*—*The term ‘qualified solar water*

1        *heating property expenditure’ means an expenditure*  
2        *for property to heat water for use in a dwelling unit*  
3        *located in the United States and used as a residence*  
4        *if at least half of the energy used by such property*  
5        *for such purpose is derived from the sun.*

6                “(2) *QUALIFIED PHOTOVOLTAIC PROPERTY EX-*  
7        *PENDITURE.—The term ‘qualified photovoltaic prop-*  
8        *erty expenditure’ means an expenditure for property*  
9        *which uses solar energy to generate electricity for use*  
10        *in a dwelling unit.*

11                “(3) *SOLAR PANELS.—No expenditure relating to*  
12        *a solar panel or other property installed as a roof (or*  
13        *portion thereof) shall fail to be treated as property de-*  
14        *scribed in paragraph (1) or (2) solely because it con-*  
15        *stitutes a structural component of the structure on*  
16        *which it is installed.*

17                “(4) *LABOR COSTS.—Expenditures for labor*  
18        *costs properly allocable to the onsite preparation, as-*  
19        *sembly, or original installation of the property de-*  
20        *scribed in paragraph (1) or (2) and for piping or*  
21        *wiring to interconnect such property to the dwelling*  
22        *unit shall be taken into account for purposes of this*  
23        *section.*

24                “(5) *SWIMMING POOLS, ETC., USED AS STORAGE*  
25        *MEDIUM.—Expenditures which are properly allocable*

1       to a swimming pool, hot tub, or any other energy  
2       storage medium which has a function other than the  
3       function of such storage shall not be taken into ac-  
4       count for purposes of this section.

5       “(d) SPECIAL RULES.—

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

11               “(A) The amount of the credit allowable  
12      under subsection (a) by reason of expenditures  
13      made during such calendar year by any of such  
14      individuals with respect to such dwelling unit  
15      shall be determined by treating all of such indi-  
16      viduals as 1 taxpayer whose taxable year is such  
17      calendar year.

18               “(B) There shall be allowable with respect to  
19      such expenditures to each of such individuals, a  
20      credit under subsection (a) for the taxable year  
21      in which such calendar year ends in an amount  
22      which bears the same ratio to the amount deter-  
23      mined under subparagraph (A) as the amount of  
24      such expenditures made by such individual dur-  
25      ing such calendar year bears to the aggregate of

1           *such expenditures made by all of such individ-*  
2           *uals during such calendar year.*

3           “(C) *Subparagraphs (A) and (B) shall be*  
4           *applied separately with respect to qualified solar*  
5           *water heating property expenditures and quali-*  
6           *fied photovoltaic property expenditures.*

7           “(2) *TENANT-STOCKHOLDER IN COOPERATIVE*  
8           *HOUSING CORPORATION.—In the case of an indi-*  
9           *vidual who is a tenant-stockholder (as defined in sec-*  
10           *tion 216) in a cooperative housing corporation (as de-*  
11           *fined in such section), such individual shall be treated*  
12           *as having made his tenant-stockholder’s proportionate*  
13           *share (as defined in section 216(b)(3)) of any expend-*  
14           *itures of such corporation.*

15           “(3) *CONDOMINIUMS.—*

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

22           “(B) *CONDOMINIUM MANAGEMENT ASSOCIA-*  
23           *TION.—For purposes of this paragraph, the term*  
24           *‘condominium management association’ means*  
25           *an organization which meets the requirements of*

1 paragraph (1) of section 528(c) (other than sub-  
2 paragraph (E) thereof) with respect to a condo-  
3 minium project substantially all of the units of  
4 which are used as residences.

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

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

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

16 “(B) EXPENDITURES PART OF BUILDING  
17 CONSTRUCTION.—In the case of an expenditure  
18 in connection with the construction or recon-  
19 struction of a structure, such expenditure shall be  
20 treated as made when the original use of the con-  
21 structed or reconstructed structure by the tax-  
22 payer begins.

23 “(C) AMOUNT.—The amount of any expend-  
24 iture shall be the cost thereof.

1           “(6) *PROPERTY FINANCED BY SUBSIDIZED EN-*  
2           *ERGY FINANCING.*—*For purposes of determining the*  
3           *amount of expenditures made by any individual with*  
4           *respect to any dwelling unit, there shall not be taken*  
5           *into account expenditures which are made from sub-*  
6           *sidized energy financing (as defined in section*  
7           *48(a)(4)(A)).*

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

14           “(f) *TERMINATION.*—*The credit allowed under this sec-*  
15           *tion shall not apply to taxable years beginning after Decem-*  
16           *ber 31, 2006 (December 31, 2008, with respect to qualified*  
17           *photovoltaic property expenditures).”.*

18           (b) *CONFORMING AMENDMENTS.*—

19           (1) *Subsection (a) of section 1016 is amended by*  
20           *striking “and” at the end of paragraph (27), by strik-*  
21           *ing the period at the end of paragraph (28) and in-*  
22           *serting “, and”, and by adding at the end the fol-*  
23           *lowing new paragraph:*

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

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

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

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

11       **SEC. 102. EXTENSION AND EXPANSION OF CREDIT FOR**  
12                               **ELECTRICITY PRODUCED FROM RENEWABLE**  
13                               **RESOURCES.**

14          (a) *EXTENSION OF CREDIT FOR WIND AND CLOSED-*  
15       *LOOP BIOMASS FACILITIES.*—Subparagraphs (A) and (B)  
16       of section 45(c)(3) are each amended by striking “2004”  
17       and inserting “2007”.

18          (b) *EXPANSION OF CREDIT FOR OPEN-LOOP BIOMASS,*  
19       *LANDFILL GAS FACILITIES, AND TRASH COMBUSTION FA-*  
20       *CILITIES.*—Paragraph (3) of section 45(c) is amended by  
21       adding at the end the following new subparagraphs:

22                       “(D) *OPEN-LOOP BIOMASS FACILITIES.*—In  
23                       the case of a facility using open-loop biomass to  
24                       produce electricity, the term ‘qualified facility’  
25                       means any facility owned by the taxpayer which

1           *is originally placed in service before January 1,*  
2           *2007.*

3           “(E) *LANDFILL GAS FACILITIES.*—*In the*  
4           *case of a facility producing electricity from gas*  
5           *derived from the biodegradation of municipal*  
6           *solid waste, the term ‘qualified facility’ means*  
7           *any facility owned by the taxpayer which is*  
8           *originally placed in service before January 1,*  
9           *2007.*

10           “(F) *TRASH COMBUSTION FACILITIES.*—*In*  
11           *the case of a facility which burns municipal*  
12           *solid waste to produce electricity, the term*  
13           *‘qualified facility’ means any facility owned by*  
14           *the taxpayer which is originally placed in serv-*  
15           *ice after the date of the enactment of this sub-*  
16           *paragraph and before January 1, 2007.”.*

17           (c) *DEFINITION AND SPECIAL RULES.*—*Subsection (c)*  
18           *of section 45 is amended by adding at the end the following*  
19           *new paragraphs:*

20           “(5) *OPEN-LOOP BIOMASS.*—*The term ‘open-loop*  
21           *biomass’ means any solid, nonhazardous, cellulosic*  
22           *waste material which is segregated from other waste*  
23           *materials and which is derived from—*

1           “(A) any of the following forest-related re-  
2 sources: mill residues, precommercial thinnings,  
3 slash, and brush,

4           “(B) solid wood waste materials, including  
5 waste pallets, crates, dunnage, manufacturing  
6 and construction wood wastes (other than pres-  
7 sure-treated, chemically-treated, or painted wood  
8 wastes), and landscape or right-of-way tree trim-  
9 mings, but not including municipal solid waste  
10 (garbage), gas derived from the biodegradation of  
11 solid waste, or paper that is commonly recycled,  
12 or

13           “(C) agriculture sources, including orchard  
14 tree crops, vineyard, grain, legumes, sugar, and  
15 other crop by-products or residues.

16       *Such term shall not include closed-loop biomass.*

17           “(6) *REDUCED CREDIT FOR CERTAIN*  
18 *PREEFFECTIVE DATE FACILITIES.—In the case of any*  
19 *facility described in subparagraph (D) or (E) of*  
20 *paragraph (3) which is placed in service before the*  
21 *date of the enactment of this paragraph—*

22           “(A) subsection (a)(1) shall be applied by  
23 substituting ‘1.0 cents’ for ‘1.5 cents’, and

24           “(B) the 5-year period beginning on the  
25 date of the enactment of this paragraph shall be

1           *substituted in lieu of the 10-year period in sub-*  
2           *section (a)(2)(A)(ii).*

3           “(7) *CREDIT ELIGIBILITY FOR OPEN-LOOP BIO-*  
4           *MASS FACILITIES.—In the case of any facility de-*  
5           *scribed in paragraph (3)(D) which is placed in serv-*  
6           *ice before the date of enactment of this paragraph, if*  
7           *the owner of such facility is not the producer of the*  
8           *electricity, the person eligible for the credit allowable*  
9           *under subsection (a) is the lessee or the operator of*  
10          *such facility.*

11          “(8) *LIMIT ON REDUCTIONS FOR GRANTS, ETC.,*  
12          *FOR OPEN-LOOP BIOMASS FACILITIES.—If the amount*  
13          *of the credit determined under subsection (a) with re-*  
14          *spect to any open-loop biomass facility is required to*  
15          *be reduced under paragraph (3) of subsection (b), the*  
16          *fraction under such paragraph shall in no event be*  
17          *greater than 1/2.*

18          “(9) *COORDINATION WITH SECTION 29.—The*  
19          *term ‘qualified facility’ shall not include any facility*  
20          *the production from which is allowed as a credit*  
21          *under section 29 for the taxable year or any prior*  
22          *taxable year.”.*

23          “(d) *QUALIFIED ENERGY RESOURCES.—Paragraph (1)*  
24          *of section 45(c) (relating to qualified energy resources) is*  
25          *amended to read as follows:*

1           “(1) *QUALIFIED ENERGY RESOURCES.*—*The term*  
2           ‘*qualified energy resources*’ *means any resource de-*  
3           *scribed in paragraph (3) which is used to generate*  
4           *electricity at a qualified facility.*”

5           *(e) EFFECTIVE DATE.*—*The amendments made by this*  
6           *section shall apply to electricity sold after the date of the*  
7           *enactment of this Act, in taxable years ending after such*  
8           *date.*

9           **SEC. 103. CREDIT FOR QUALIFIED FUEL CELL POWER**  
10           **PLANTS.**

11           *(a) BUSINESS PROPERTY.*—

12                   *(1) IN GENERAL.*—*Subparagraph (A) of section*  
13           *48(a)(3) (defining energy property) is amended by*  
14           *striking “or” at the end of clause (i), by adding “or”*  
15           *at the end of clause (ii), and by inserting after clause*  
16           *(ii) the following new clause:*

17                           *“(iii) equipment which is part of a*  
18                           *qualified fuel cell power plant,”.*

19                   *(2) QUALIFIED FUEL CELL POWER PLANT.*—*Sub-*  
20           *section (a) of section 48 is amended by redesignating*  
21           *paragraphs (4) and (5) as paragraphs (5) and (6),*  
22           *respectively, and by inserting after paragraph (3) the*  
23           *following new paragraph:*

24                   *“(4) QUALIFIED FUEL CELL POWER PLANT.*—*For*  
25           *purposes of this subsection—*

1           “(A) *IN GENERAL.*—The term ‘qualified fuel  
2 cell power plant’ means a fuel cell power plant  
3 that has an electricity-only generation efficiency  
4 greater than 30 percent.

5           “(B) *LIMITATION.*—The energy credit with  
6 respect to any qualified fuel cell power plant for  
7 any taxable year shall not exceed—

8                   “(i) \$500 for each  $\frac{1}{2}$  kilowatt of ca-  
9 pacity of the power plant, reduced by

10                   “(ii) the aggregate energy credits al-  
11 lowed with respect to such power plant for  
12 all prior taxable years.

13           “(C) *FUEL CELL POWER PLANT.*—The term  
14 ‘fuel cell power plant’ means an integrated sys-  
15 tem comprised of a fuel cell stack assembly and  
16 associated balance of plant components that con-  
17 verts a fuel into electricity using electrochemical  
18 means.

19           “(D) *TERMINATION.*—Such term shall not  
20 include any property placed in service after De-  
21 cember 31, 2006.”.

22           “(3) *EFFECTIVE DATE.*—The amendments made  
23 by this subsection shall apply to property placed in  
24 service after December 31, 2003, under rules similar  
25 to the rules of section 48(m) of the Internal Revenue

1 Code of 1986 (as in effect on the day before the date  
2 of the enactment of the Revenue Reconciliation Act  
3 of 1990).

4 (b) *NONBUSINESS PROPERTY.*—

5 (1) *IN GENERAL.*—Subpart A of part IV of sub-  
6 chapter A of chapter 1 (relating to nonrefundable per-  
7 sonal credits) is amended by inserting after section  
8 25C the following new section:

9 ***“SEC. 25D. NONBUSINESS QUALIFIED FUEL CELL POWER***  
10 ***PLANT.***

11 “(a) *IN GENERAL.*—In the case of an individual, there  
12 shall be allowed as a credit against the tax imposed by this  
13 chapter for the taxable year an amount equal to 10 percent  
14 of the qualified fuel cell power plant expenditures which are  
15 paid or incurred during such year.

16 “(b) *LIMITATIONS.*—The credit allowed under sub-  
17 section (a) with respect to any qualified fuel cell power  
18 plant for any taxable year shall not exceed—

19 “(1) \$500 for each ½ kilowatt of capacity of the  
20 power plant, reduced by

21 “(2) the aggregate energy credits allowed with re-  
22 spect to such power plant for all prior taxable years.

23 “(c) *QUALIFIED FUEL CELL POWER PLANT EXPENDI-*  
24 *TURES.*—For purposes of this section, the term ‘qualified  
25 fuel cell power plant expenditures’ means expenditures by

1 *the taxpayer for any qualified fuel cell power plant (as de-*  
2 *fin ed in section 48(a)(4))—*

3 *“(1) which meets the requirements of subpara-*  
4 *graphs (B) and (D) of section 48(a)(3), and*

5 *“(2) which is installed on or in connection with*  
6 *a dwelling unit—*

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

9 *“(B) which is used by the taxpayer as a res-*  
10 *idence.*

11 *Such term includes expenditures for labor costs properly al-*  
12 *locable to the onsite preparation, assembly, or original in-*  
13 *stallation of the property.*

14 *“(d) SPECIAL RULES.—For purposes of this section,*  
15 *rules similar to the rules of section 25C(d) shall apply.*

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

22 *“(f) TERMINATION.—This section shall not apply to*  
23 *any expenditure made after December 31, 2006.”.*

24 *(2) CONFORMING AMENDMENTS.—*

1           (A) Subsection (a) of section 1016 is  
2           amended by striking “and” at the end of para-  
3           graph (28), by striking the period at the end of  
4           paragraph (29) and inserting “, and”, and by  
5           adding at the end the following new paragraph:

6           “(30) to the extent provided in section 25D(e), in  
7           the case of amounts with respect to which a credit has  
8           been allowed under section 25D.”.

9           (B) The table of sections for subpart A of  
10          part IV of subchapter A of chapter 1 is amended  
11          by inserting after the item relating to section  
12          25C the following new item:

          “Sec. 25D. Nonbusiness qualified fuel cell power plant.”.

13          (3) *EFFECTIVE DATE.*—The amendments made  
14          by this subsection shall apply to expenditures paid or  
15          incurred after December 31, 2003, in taxable years  
16          ending after such date.

17 **SEC. 104. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
18 **MENTS TO EXISTING HOMES.**

19          (a) *IN GENERAL.*—Subpart A of part IV of subchapter  
20          A of chapter 1 (relating to nonrefundable personal credits)  
21          is amended by inserting after section 25D the following new  
22          section:

1 **“SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
2 **ING HOMES.**

3 “(a) *ALLOWANCE OF CREDIT.*—*In the case of an indi-*  
4 *vidual, there shall be allowed as a credit against the tax*  
5 *imposed by this chapter for the taxable year an amount*  
6 *equal to 20 percent of the amount paid or incurred by the*  
7 *taxpayer for qualified energy efficiency improvements in-*  
8 *stalled during such taxable year.*

9 “(b) *LIMITATIONS.*—

10 “(1) *MAXIMUM CREDIT.*—*The credit allowed by*  
11 *this section with respect to a dwelling shall not exceed*  
12 *\$2,000.*

13 “(2) *PRIOR CREDIT AMOUNTS FOR TAXPAYER ON*  
14 *SAME DWELLING TAKEN INTO ACCOUNT.*—*If a credit*  
15 *was allowed to the taxpayer under subsection (a) with*  
16 *respect to a dwelling in 1 or more prior taxable years,*  
17 *the amount of the credit otherwise allowable for the*  
18 *taxable year with respect to that dwelling shall not*  
19 *exceed the amount of \$2,000 reduced by the sum of the*  
20 *credits allowed under subsection (a) to the taxpayer*  
21 *with respect to the dwelling for all prior taxable*  
22 *years.*

23 “(c) *CARRYFORWARD OF UNUSED CREDIT.*—*If the*  
24 *credit allowable under subsection (a) exceeds the limitation*  
25 *imposed by section 26(a) for such taxable year reduced by*  
26 *the sum of the credits allowable under this subpart (other*

1 *than this section) for such taxable year, such excess shall*  
2 *be carried to the succeeding taxable year and added to the*  
3 *credit allowable under subsection (a) for such succeeding*  
4 *taxable year.*

5       “(d) *QUALIFIED ENERGY EFFICIENCY IMPROVE-*  
6 *MENTS.—For purposes of this section, the term ‘qualified*  
7 *energy efficiency improvements’ means any energy efficient*  
8 *building envelope component which meets the prescriptive*  
9 *criteria for such component established by the 2000 Inter-*  
10 *national Energy Conservation Code (or, in the case of metal*  
11 *roofs with appropriate pigmented coatings, meets the En-*  
12 *ergy Star program requirements), if—*

13               “(1) *such component is installed in or on a*  
14 *dwelling—*

15                       “(A) *located in the United States, and*

16                       “(B) *owned and used by the taxpayer as the*  
17 *taxpayer’s principal residence (within the mean-*  
18 *ing of section 121),*

19               “(2) *the original use of such component com-*  
20 *mences with the taxpayer, and*

21               “(3) *such component reasonably can be expected*  
22 *to remain in use for at least 5 years.*

23 *If the aggregate cost of such components with respect to any*  
24 *dwelling exceeds \$1,000, such components shall be treated*  
25 *as qualified energy efficiency improvements only if such*

1 *components are also certified in accordance with subsection*  
2 *(e) as meeting such criteria.*

3 “(e) *CERTIFICATION.*—*The certification described in*  
4 *subsection (d) shall be—*

5 “(1) *determined on the basis of the technical*  
6 *specifications or applicable ratings (including prod-*  
7 *uct labeling requirements) for the measurement of en-*  
8 *ergy efficiency, based upon energy use or building en-*  
9 *velope component performance, for the energy efficient*  
10 *building envelope component,*

11 “(2) *provided by a local building regulatory au-*  
12 *thority, a utility, a manufactured home production*  
13 *inspection primary inspection agency (IPIA), or an*  
14 *accredited home energy rating system provider who is*  
15 *accredited by or otherwise authorized to use approved*  
16 *energy performance measurement methods by the Res-*  
17 *idential Energy Services Network (RESNET), and*

18 “(3) *made in writing in a manner that specifies*  
19 *in readily verifiable fashion the energy efficient build-*  
20 *ing envelope components installed and their respective*  
21 *energy efficiency levels.*

22 “(f) *DEFINITIONS AND SPECIAL RULES.*—

23 “(1) *TENANT-STOCKHOLDER IN COOPERATIVE*  
24 *HOUSING CORPORATION.*—*In the case of an indi-*  
25 *vidual who is a tenant-stockholder (as defined in sec-*

1        *tion 216) in a cooperative housing corporation (as de-*  
2        *defined in such section), such individual shall be treated*  
3        *as having paid his tenant-stockholder's proportionate*  
4        *share (as defined in section 216(b)(3)) of the cost of*  
5        *qualified energy efficiency improvements made by*  
6        *such corporation.*

7            *“(2) CONDOMINIUMS.—*

8            *“(A) IN GENERAL.—In the case of an indi-*  
9            *vidual who is a member of a condominium man-*  
10          *agement association with respect to a condo-*  
11          *minium which he owns, such individual shall be*  
12          *treated as having paid his proportionate share of*  
13          *the cost of qualified energy efficiency improve-*  
14          *ments made by such association.*

15          *“(B) CONDOMINIUM MANAGEMENT ASSOCIA-*  
16          *TION.—For purposes of this paragraph, the term*  
17          *‘condominium management association’ means*  
18          *an organization which meets the requirements of*  
19          *paragraph (1) of section 528(c) (other than sub-*  
20          *paragraph (E) thereof) with respect to a condo-*  
21          *minium project substantially all of the units of*  
22          *which are used as residences.*

23          *“(3) BUILDING ENVELOPE COMPONENT.—The*  
24          *term ‘building envelope component’ means insulation*  
25          *material or system which is specifically and pri-*

1        *marily designed to reduce the heat loss or gain of a*  
2        *dwelling when installed in or on such dwelling, exte-*  
3        *rior windows (including skylights) and doors, and*  
4        *metal roofs with appropriate pigmented coatings*  
5        *which are specifically and primarily designed to re-*  
6        *duce the heat gain of a dwelling when installed in or*  
7        *on such dwelling.*

8                *“(4) MANUFACTURED HOMES INCLUDED.—For*  
9        *purposes of this section, the term ‘dwelling’ includes*  
10        *a manufactured home which conforms to Federal*  
11        *Manufactured Home Construction and Safety Stand-*  
12        *ards (section 3280 of title 24, Code of Federal Regula-*  
13        *tions, as in effect on April 3, 2003).*

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

20                *“(h) APPLICATION OF SECTION.—This section shall*  
21        *apply to qualified energy efficiency improvements installed*  
22        *after December 31, 2003, and before January 1, 2007.”.*

23                *(b) CONFORMING AMENDMENTS.—*

1           (1) *Subsection (c) of section 23 is amended by*  
2 *striking “section 1400C” and inserting “sections 25E*  
3 *and 1400C”.*

4           (2) *Subsection (a) of section 1016 is amended by*  
5 *striking “and” at the end of paragraph (29), by strik-*  
6 *ing the period at the end of paragraph (30) and in-*  
7 *serting “, and”, and by adding at the end the fol-*  
8 *lowing new paragraph:*

9           *“(31) to the extent provided in section 25E(g), in*  
10 *the case of amounts with respect to which a credit has*  
11 *been allowed under section 25E.”.*

12           (3) *Subsection (d) of section 1400C is amended*  
13 *by inserting “and section 25E” after “this section”.*

14           (4) *The table of sections for subpart A of part IV*  
15 *of subchapter A of chapter 1 is amended by inserting*  
16 *after the item relating to section 25D the following*  
17 *new item:*

*“Sec. 25E. Energy efficiency improvements to existing homes.”.*

18           (c) *EFFECTIVE DATE.—The amendments made by this*  
19 *section shall apply to taxable years ending after December*  
20 *31, 2003.*

21 **SEC. 105. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**  
22 **ENERGY EFFICIENT HOME.**

23           (a) *IN GENERAL.—Subpart D of part IV of subchapter*  
24 *A of chapter 1 (relating to business related credits) is*

1 amended by inserting after section 45F the following new  
2 section:

3 **“SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.**

4 “(a) *IN GENERAL.*—For purposes of section 38, in the  
5 case of an eligible contractor, the credit determined under  
6 this section for the taxable year is an amount equal to the  
7 aggregate adjusted bases of all energy efficient property in-  
8 stalled in a qualified new energy efficient home during con-  
9 struction of such home.

10 “(b) *LIMITATIONS.*—

11 “(1) *MAXIMUM CREDIT.*—

12 “(A) *IN GENERAL.*—The credit allowed by  
13 this section with respect to a dwelling shall not  
14 exceed \$2,000.

15 “(B) *PRIOR CREDIT AMOUNTS ON SAME*  
16 *DWELLING TAKEN INTO ACCOUNT.*—If a credit  
17 was allowed under subsection (a) with respect to  
18 a dwelling in 1 or more prior taxable years, the  
19 amount of the credit otherwise allowable for the  
20 taxable year with respect to that dwelling shall  
21 not exceed the amount of \$2,000 reduced by the  
22 sum of the credits allowed under subsection (a)  
23 with respect to the dwelling for all prior taxable  
24 years.

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

3                   “(A) *the basis of any property referred to in*  
4                   *subsection (a) shall be reduced by that portion of*  
5                   *the basis of any property which is attributable to*  
6                   *qualified rehabilitation expenditures (as defined*  
7                   *in section 47(c)(2)) or to the energy percentage*  
8                   *of energy property (as determined under section*  
9                   *48(a)), and*

10                   “(B) *expenditures taken into account under*  
11                   *either section 47 or 48(a) shall not be taken into*  
12                   *account under this section.*

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

14                   “(1) *ELIGIBLE CONTRACTOR.—The term ‘eligible*  
15                   *contractor’ means the person who constructed the new*  
16                   *energy efficient home, or in the case of a manufac-*  
17                   *tured home which conforms to Federal Manufactured*  
18                   *Home Construction and Safety Standards (section*  
19                   *3280 of title 24, Code of Federal Regulations, as in*  
20                   *effect on April 3, 2003), the manufactured home pro-*  
21                   *ducer of such home.*

22                   “(2) *ENERGY EFFICIENT PROPERTY.—The term*  
23                   *‘energy efficient property’ means any energy efficient*  
24                   *building envelope component, and any energy effi-*  
25                   *cient heating or cooling appliance.*

1           “(3) *QUALIFIED NEW ENERGY EFFICIENT*  
2           *HOME.*—*The term ‘qualified new energy efficient*  
3           *home’ means a dwelling—*

4                     “(A) *located in the United States,*

5                     “(B) *the construction of which is substan-*  
6                     *tially completed after December 31, 2003,*

7                     “(C) *the original use of which is as a prin-*  
8                     *cipal residence (within the meaning of section*  
9                     *121) which commences with the person who ac-*  
10                    *quires such dwelling from the eligible contractor,*  
11                    *and*

12                    “(D) *which is certified to have a level of an-*  
13                    *nuual heating and cooling energy consumption*  
14                    *that is at least 30 percent below the annual level*  
15                    *of heating and cooling energy consumption of a*  
16                    *comparable dwelling constructed in accordance*  
17                    *with the standards of the 2000 International En-*  
18                    *ergy Conservation Code and to have building en-*  
19                    *velope component improvements account for  $\frac{1}{3}$*   
20                    *of such 30 percent.*

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

23                    “(5) *ACQUIRE.*—*The term ‘acquire’ includes pur-*  
24                    *chase and, in the case of reconstruction and rehabili-*

1        *tation, such term includes a binding written contract*  
2        *for such reconstruction or rehabilitation.*

3            “(6) *BUILDING ENVELOPE COMPONENT.*—*The*  
4        *term ‘building envelope component’ means insulation*  
5        *material or system which is specifically and pri-*  
6        *marily designed to reduce the heat loss or gain of a*  
7        *dwelling when installed in or on such dwelling, exte-*  
8        *rior windows (including skylights) and doors, and*  
9        *metal roofs with appropriate pigmented coatings*  
10       *which are specifically and primarily designed to re-*  
11       *duce the heat gain of a dwelling when installed in or*  
12       *on such dwelling.*

13           “(7) *MANUFACTURED HOME INCLUDED.*—*The*  
14        *term ‘dwelling’ includes a manufactured home con-*  
15        *forming to Federal Manufactured Home Construction*  
16        *and Safety Standards (section 3280 of title 24, Code*  
17        *of Federal Regulations, as in effect on April 3, 2003).*

18           “(d) *CERTIFICATION.*—

19           “(1) *METHOD.*—*A certification described in sub-*  
20        *section (c)(3)(D) shall be determined on the basis of*  
21        *one of the following methods:*

22           “(A) *The technical specifications or appli-*  
23        *cable ratings (including product labeling require-*  
24        *ments) for the measurement of energy efficiency*  
25        *for the energy efficient building envelope compo-*

1           *ment or energy efficient heating or cooling appli-*  
2           *ance, based upon energy use or building envelope*  
3           *component performance.*

4           *“(B) An energy performance measurement*  
5           *method that utilizes computer software approved*  
6           *by organizations designated by the Secretary.*

7           *“(2) PROVIDER.—Such certification shall be pro-*  
8           *vided by—*

9           *“(A) in the case of a method described in*  
10          *paragraph (1)(A), a local building regulatory*  
11          *authority, a utility, a manufactured home pro-*  
12          *duction inspection primary inspection agency*  
13          *(IPIA), or an accredited home energy rating sys-*  
14          *tems provider who is accredited by, or otherwise*  
15          *authorized to use, approved energy performance*  
16          *measurement methods by the Home Energy Rat-*  
17          *ings Systems Council or the National Associa-*  
18          *tion of State Energy Officials, or*

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

23          *“(3) FORM.—Such certification shall be made in*  
24          *writing in a manner that specifies in readily*  
25          *verifiable fashion the energy efficient building enve-*

1 *lope components and energy efficient heating or cool-*  
2 *ing appliances installed and their respective energy*  
3 *efficiency levels, and in the case of a method described*  
4 *in subparagraph (B) of paragraph (1), accompanied*  
5 *by written analysis documenting the proper applica-*  
6 *tion of a permissible energy performance measure-*  
7 *ment method to the specific circumstances of such*  
8 *dwelling.*

9 “(4) REGULATIONS.—

10 “(A) IN GENERAL.—In prescribing regula-  
11 tions under this subsection for energy perform-  
12 ance measurement methods, the Secretary shall  
13 prescribe procedures for calculating annual en-  
14 ergy costs for heating and cooling and cost sav-  
15 ings and for the reporting of the results. Such  
16 regulations shall—

17 “(i) be based on the National Home  
18 Energy Rating Technical Guidelines of the  
19 National Association of State Energy Offi-  
20 cials, the Home Energy Rating Guidelines  
21 of the Home Energy Rating Systems Coun-  
22 cil, or the modified 2001 California Resi-  
23 dential ACM manual,

24 “(ii) provide that any calculation pro-  
25 cedures be developed such that the same en-

1            *ergy efficiency measures allow a home to*  
2            *qualify for the credit under this section re-*  
3            *gardless of whether the house uses a gas or*  
4            *oil furnace or boiler or an electric heat*  
5            *pump, and*

6            *“(iii) require that any computer soft-*  
7            *ware allow for the printing of the Federal*  
8            *tax forms necessary for the credit under this*  
9            *section and explanations for the homebuyer*  
10           *of the energy efficient features that were*  
11           *used to comply with the requirements of this*  
12           *section.*

13           *“(B) PROVIDERS.—For purposes of para-*  
14           *graph (2)(B), the Secretary shall establish re-*  
15           *quirements for the designation of individuals*  
16           *based on the requirements for energy consultants*  
17           *and home energy raters specified by the National*  
18           *Association of State Energy Officials.*

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

1       “(f) *APPLICATION OF SECTION.*—Subsection (a) shall  
2       apply to dwellings purchased during the period beginning  
3       on January 1, 2004, and ending on December 31, 2006.”.

4       (b) *CREDIT MADE PART OF GENERAL BUSINESS*  
5       *CREDIT.*—Subsection (b) of section 38 (relating to current  
6       year business credit) is amended by striking “plus” at the  
7       end of paragraph (14), by striking the period at the end  
8       of paragraph (15) and inserting “, plus”, and by adding  
9       at the end thereof the following new paragraph:

10               “(16) the new energy efficient home credit deter-  
11               mined under section 45G.”.

12       (c) *DENIAL OF DOUBLE BENEFIT.*—Section 280C (re-  
13       lating to certain expenses for which credits are allowable)  
14       is amended by adding at the end thereof the following new  
15       subsection:

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

22       (d) *LIMITATION ON CARRYBACK.*—Subsection (d) of  
23       section 39 is amended by adding at the end the following  
24       new paragraph:

1           “(11) *NO CARRYBACK OF NEW ENERGY EFFI-*  
 2           *CIENT HOME CREDIT BEFORE EFFECTIVE DATE.*—No  
 3           *portion of the unused business credit for any taxable*  
 4           *year which is attributable to the credit determined*  
 5           *under section 45G may be carried back to any taxable*  
 6           *year ending before January 1, 2004.”.*

7           *(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS*  
 8           *CREDITS.*—Subsection (c) of section 196 is amended by  
 9           striking “and” at the end of paragraph (9), by striking the  
 10          period at the end of paragraph (10) and inserting “, and”,  
 11          and by adding after paragraph (10) the following new  
 12          paragraph:

13           “(11) *the new energy efficient home credit deter-*  
 14          *mined under section 45G.”.*

15          *(f) CLERICAL AMENDMENT.*—The table of sections for  
 16          subpart D of part IV of subchapter A of chapter 1 is amend-  
 17          ed by inserting after the item relating to section 45F the  
 18          following new item:

                  “Sec. 45G. *New energy efficient home credit.*”.

19          *(g) EFFECTIVE DATE.*—The amendments made by this  
 20          section shall apply to taxable years ending after December  
 21          31, 2003.

22          **SEC. 106. ENERGY CREDIT FOR COMBINED HEAT AND**  
 23                                    **POWER SYSTEM PROPERTY.**

24          *(a) IN GENERAL.*—Subparagraph (A) of section  
 25          48(a)(3) (defining energy property) is amended by striking

1 “or” at the end of clause (ii), by adding “or” at the end  
2 of clause (iii), and by inserting after clause (iii) the fol-  
3 lowing new clause:

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

6 (b) *COMBINED HEAT AND POWER SYSTEM PROP-*  
7 *ERTY.*—Subsection (a) of section 48 is amended by redesign-  
8 nating paragraphs (5) and (6) as paragraphs (6) and (7),  
9 respectively, and by inserting after paragraph (4) the fol-  
10 lowing new paragraph:

11 “(5) *COMBINED HEAT AND POWER SYSTEM PROP-*  
12 *ERTY.*—For purposes of this subsection—

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

17 “(i) which uses the same energy source  
18 for the simultaneous or sequential genera-  
19 tion of electrical power, mechanical shaft  
20 power, or both, in combination with the  
21 generation of steam or other forms of useful  
22 thermal energy (including heating and cool-  
23 ing applications),

24 “(ii) which has an electrical capacity  
25 of more than 50 kilowatts or a mechanical

1           *energy capacity of more than 67 horsepower*  
2           *or an equivalent combination of electrical*  
3           *and mechanical energy capacities,*

4           “(iii) which produces—

5                   “(I) at least 20 percent of its total  
6                   useful energy in the form of thermal  
7                   energy, and

8                   “(II) at least 20 percent of its  
9                   total useful energy in the form of elec-  
10                  trical or mechanical power (or com-  
11                  bination thereof),

12                  “(iv) the energy efficiency percentage  
13                  of which exceeds 60 percent (70 percent in  
14                  the case of a system with an electrical ca-  
15                  pacity in excess of 50 megawatts or a me-  
16                  chanical energy capacity in excess of 67,000  
17                  horsepower, or an equivalent combination of  
18                  electrical and mechanical energy capac-  
19                  ities), and

20                  “(v) which is placed in service after  
21                  December 31, 2003, and before January 1,  
22                  2007.

23                  “(B) SPECIAL RULES.—

24                   “(i) ENERGY EFFICIENCY PERCENT-  
25                   AGE.—For purposes of subparagraph

1                   (A)(iv), the energy efficiency percentage of a  
2                   system is the fraction—

3                   “*(I) the numerator of which is the*  
4                   *total useful electrical, thermal, and me-*  
5                   *chanical power produced by the system*  
6                   *at normal operating rates, and*

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

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

14                  “*(iii) INPUT AND OUTPUT PROPERTY*  
15                  *NOT INCLUDED.—The term ‘combined heat*  
16                  *and power system property’ does not in-*  
17                  *clude property used to transport the energy*  
18                  *source to the facility or to distribute energy*  
19                  *produced by the facility.*

20                  “*(iv) PUBLIC UTILITY PROPERTY.—*

21                  “*(I) ACCOUNTING RULE FOR PUB-*  
22                  *LIC UTILITY PROPERTY.—If the com-*  
23                  *bined heat and power system property*  
24                  *is public utility property (as defined*  
25                  *in section 168(i)(1)), the taxpayer may*

1                   *only claim the credit under the sub-*  
2                   *section if, with respect to such prop-*  
3                   *erty, the taxpayer uses a normalization*  
4                   *method of accounting.*

5                   “(II) *CERTAIN EXCEPTION NOT TO*  
6                   *APPLY.—The matter in paragraph (3)*  
7                   *which follows subparagraph (D) shall*  
8                   *not apply to combined heat and power*  
9                   *system property.*

10                  “(C) *EXTENSION OF DEPRECIATION RECOV-*  
11                  *ERY PERIOD.—If a taxpayer is allowed credit*  
12                  *under this section for combined heat and power*  
13                  *system property and such property would (but*  
14                  *for this subparagraph) have a class life of 15*  
15                  *years or less under section 168, such property*  
16                  *shall be treated as having a 22-year class life for*  
17                  *purposes of section 168.”.*

18                  “(c) *NO CARRYBACK OF ENERGY CREDIT BEFORE EF-*  
19                  *FECTIVE DATE.—Subsection (d) of section 39 is amended*  
20                  *by adding at the end the following new paragraph:*

21                         “(12) *NO CARRYBACK OF ENERGY CREDIT BE-*  
22                         *FORE EFFECTIVE DATE.—No portion of the unused*  
23                         *business credit for any taxable year which is attrib-*  
24                         *utable to the energy credit with respect to property*

1       described in section 48(a)(5) may be carried back to  
2       a taxable year ending before January 1, 2004.”.

3       (d) *EFFECTIVE DATE.*—The amendments made by this  
4       section shall apply to property placed in service after De-  
5       cember 31, 2003, in taxable years ending after such date.

6       **SEC. 107. NEW NONREFUNDABLE PERSONAL CREDITS AL-**  
7                               **LOWED AGAINST REGULAR AND MINIMUM**  
8                               **TAXES.**

9       (a) *IN GENERAL.*—

10               (1) *SECTION 25C.*—Section 25C(b), as added by  
11       section 101, is amended by adding at the end the fol-  
12       lowing new paragraph:

13               “(3) *LIMITATION BASED ON AMOUNT OF TAX.*—  
14       The credit allowed under subsection (a) for the tax-  
15       able year shall not exceed the excess of—

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

19               “(B) the sum of the credits allowable under  
20       this subpart (other than this section and section  
21       25D and 25E) and section 27 for the taxable  
22       year.”.

23               (2) *SECTION 25D.*—Section 25D(b), as added by  
24       section 103, is amended to read as follows:

25               “(b) *LIMITATIONS.*—

1           “(1) *IN GENERAL.*—*The credit allowed under*  
2           *subsection (a) with respect to any qualified fuel cell*  
3           *power plant for any taxable year shall not exceed—*

4                     “(A) *\$500 for each 1/2 kilowatt of capacity*  
5                     *of the power plant, reduced by*

6                     “(B) *the aggregate energy credits allowed*  
7                     *with respect to such power plant for all prior*  
8                     *taxable years.*

9           “(2) *LIMITATION BASED ON AMOUNT OF TAX.*—  
10           *The credit allowed under subsection (a) for the tax-*  
11           *able year shall not exceed the excess of—*

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

15                     “(B) *the sum of the credits allowable under*  
16                     *this subpart (other than this section and section*  
17                     *25E) and section 27 for the taxable year.”.*

18           “(3) *SECTION 25E.*—*Section 25E(b), as added by*  
19           *section 104, is amended by adding at the end the fol-*  
20           *lowing new paragraph:*

21                     “(3) *LIMITATION BASED ON AMOUNT OF TAX.*—  
22                     *The credit allowed under subsection (a) for the tax-*  
23                     *able year shall not exceed the excess of—*

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

4           “(B) the sum of the credits allowable under  
5           this subpart (other than this section) and section  
6           27 for the taxable year.”.

7           (b) CONFORMING AMENDMENTS.—

8           (1) Section 23(b)(4)(B) is amended by inserting  
9           “and sections 25C, 25D, and 25E” after “this sec-  
10          tion”.

11          (2) Section 24(b)(3)(B) is amended by striking  
12          “and 25B” and inserting “, 25B, 25C, 25D, and  
13          25E”.

14          (3) Section 25(e)(1)(C) is amended by inserting  
15          “25C, 25D, and 25E” after “25B,”.

16          (4) Section 25B(g)(2) is amended by striking  
17          “section 23” and inserting “sections 23, 25C, 25D,  
18          and 25E”.

19          (5) Section 25E(c), as added by section 104, is  
20          amended by striking “section 26(a) for such taxable  
21          year reduced by the sum of the credits allowable  
22          under this subpart (other than this section)” and in-  
23          serting “subsection (b)(3)”.

24          (6) Section 26(a)(1) is amended by striking  
25          “and 25B” and inserting “25B, 25C, 25D, and 25E”.

1           (7) Section 904(h) is amended by striking “and  
2           25B” and inserting “25B, 25C, 25D, and 25E”.

3           (8) Section 1400C(d) is amended by striking  
4           “and 25B” and inserting “25B, 25C, 25D, and 25E”.

5           (c) *EFFECTIVE DATE.*—The amendments made by this  
6 section shall apply to taxable years beginning after Decem-  
7 ber 31, 2003.

8   **SEC. 108. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE TAXES**  
9                   **ON RAILROADS AND INLAND WATERWAY**  
10                   **TRANSPORTATION WHICH REMAIN IN GEN-**  
11                   **ERAL FUND.**

12           (a) *TAXES ON TRAINS.*—

13                   (1) *IN GENERAL.*—Subparagraph (A) of section  
14 4041(a)(1) is amended by striking “or a diesel-pow-  
15 ered train” each place it appears and by striking “or  
16 train”.

17                   (2) *CONFORMING AMENDMENTS.*—

18                           (A) Subparagraph (C) of section 4041(a)(1)  
19 is amended by striking clause (ii) and by redesi-  
20 gnating clause (iii) as clause (ii).

21                           (B) Subparagraph (C) of section 4041(b)(1)  
22 is amended by striking all that follows “section  
23 6421(e)(2)” and inserting a period.

24                           (C) Subsection (d) of section 4041 is  
25 amended by redesignating paragraph (3) as

1 paragraph (4) and by inserting after paragraph  
2 (2) the following new paragraph:

3 “(3) *DIESEL FUEL USED IN TRAINS.*—There is  
4 hereby imposed a tax of 0.1 cent per gallon on any  
5 liquid other than gasoline (as defined in section  
6 4083)—

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

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

13 No tax shall be imposed by this paragraph on the sale  
14 or use of any liquid if tax was imposed on such liq-  
15 uid under section 4081.”.

16 (D) Subsection (f) of section 4082 is amend-  
17 ed by striking “section 4041(a)(1)” and inserting  
18 “subsections (d)(3) and (a)(1) of section 4041,  
19 respectively”.

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

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

24 “(3) *GASOLINE USED IN TRAINS.*—In the case of  
25 gasoline used as a fuel in a train, this section shall

1 *not apply with respect to the Leaking Underground*  
2 *Storage Tank Trust Fund financing rate under sec-*  
3 *tion 4081.”.*

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

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

15 (b) *FUEL USED ON INLAND WATERWAYS.—*

16 (1) *IN GENERAL.—Paragraph (1) of section*  
17 *4042(b) is amended by adding “and” at the end of*  
18 *subparagraph (A), by striking “, and” at the end of*  
19 *subparagraph (B) and inserting a period, and by*  
20 *striking subparagraph (C).*

21 (2) *CONFORMING AMENDMENT.—Paragraph (2)*  
22 *of section 4042(b) is amended by striking subpara-*  
23 *graph (C).*

24 (c) *EFFECTIVE DATE.—The amendments made by this*  
25 *section shall take effect on January 1, 2004.*

1 **SEC. 109. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN**  
2 **MIXTURES OF DIESEL FUEL.**

3 (a) *IN GENERAL.*—Paragraph (2) of section 4081(a)  
4 is amended by adding at the end the following:

5 “(C) *DIESEL-WATER FUEL EMULSION.*—In  
6 the case of diesel-water fuel emulsion at least 14  
7 percent of which is water and with respect to  
8 which the emulsion additive is registered by a  
9 United States manufacturer with the Environ-  
10 mental Protection Agency pursuant to section  
11 211 of the Clean Air Act (as in effect on March  
12 31, 2003), subparagraph (A)(iii) shall be applied  
13 by substituting ‘19.7 cents’ for ‘24.3 cents’.”.

14 (b) *SPECIAL RULES FOR DIESEL-WATER FUEL EMUL-*  
15 *SIONS.*—

16 (1) *REFUNDS FOR TAX-PAID PURCHASES.*—Sec-  
17 tion 6427 is amended by redesignating subsections  
18 (m) through (p) as subsections (n) through (q), respec-  
19 tively, and by inserting after subsection (l) the fol-  
20 lowing new subsection:

21 “(m) *DIESEL FUEL USED TO PRODUCE EMULSION.*—

22 “(1) *IN GENERAL.*—Except as provided in sub-  
23 section (k), if any diesel fuel on which tax was im-  
24 posed by section 4081 at the regular tax rate is used  
25 by any person in producing an emulsion described in  
26 section 4081(a)(2)(C) which is sold or used in such

1        *person's trade or business, the Secretary shall pay*  
2        *(without interest) to such person an amount equal to*  
3        *the excess of the regular tax rate over the incentive*  
4        *tax rate with respect to such fuel.*

5            *“(2) DEFINITIONS.—For purposes of paragraph*  
6        *(1)—*

7            *“(A) REGULAR TAX RATE.—The term ‘reg-*  
8        *ular tax rate’ means the aggregate rate of tax*  
9        *imposed by section 4081 determined without re-*  
10       *gard to section 4081(a)(2)(C).*

11           *“(B) INCENTIVE TAX RATE.—The term ‘in-*  
12       *centive tax rate’ means the aggregate rate of tax*  
13       *imposed by section 4081 determined with regard*  
14       *to section 4081(a)(2)(C).”.*

15           *(2) LATER SEPARATION OF FUEL.—*

16           *(A) IN GENERAL.—Section 4081 (relating to*  
17       *imposition of tax) is amended by redesignating*  
18       *subsections (d) and (e) as subsections (e) and (f),*  
19       *respectively, and by inserting after subsection (c)*  
20       *the following new subsection:*

21           *“(d) LATER SEPARATION OF FUEL FROM DIESEL-*  
22       *WATER FUEL EMULSION.—If any person separates the tax-*  
23       *able fuel from a diesel-water fuel emulsion on which tax*  
24       *was imposed under subsection (a) at a rate determined*  
25       *under subsection (a)(2)(C) (or with respect to which a credit*

1 *or payment was allowed or made by reason of section 6427),*  
 2 *such person shall be treated as the refiner of such taxable*  
 3 *fuel. The amount of tax imposed on any removal of such*  
 4 *fuel by such person shall be reduced by the amount of tax*  
 5 *imposed (and not credited or refunded) on any prior re-*  
 6 *moval or entry of such fuel.”.*

7 (B) *CONFORMING AMENDMENT.—Subsection*  
 8 *(d) of section 6416 is amended by striking “sec-*  
 9 *tion 4081(e)” and inserting “section 4081(f)”.*

10 (c) *EFFECTIVE DATE.—The amendments made by this*  
 11 *section shall take effect on October 1, 2003.*

12 **SEC. 110. REPEAL OF PHASEOUTS FOR QUALIFIED ELEC-**  
 13 **TRIC VEHICLE CREDIT AND DEDUCTION FOR**  
 14 **CLEAN FUEL-VEHICLES.**

15 (a) *CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—*  
 16 *Subsection (b) of section 30 (relating to limitations) is*  
 17 *amended by striking paragraph (2) and redesignating*  
 18 *paragraph (3) as paragraph (2).*

19 (b) *DEDUCTION FOR CLEAN-FUEL VEHICLES AND*  
 20 *CERTAIN REFUELING PROPERTY.—Paragraph (1) of sec-*  
 21 *tion 179A(b) (relating to qualified clean-fuel vehicle prop-*  
 22 *erty) is amended to read as follows:*

23 “(1) *QUALIFIED CLEAN-FUEL VEHICLE PROP-*  
 24 *ERTY.— The cost which may be taken into account*

1        *under subsection (a)(1)(A) with respect to any motor*  
 2        *vehicle shall not exceed—*

3                *“(A) in the case of a motor vehicle not de-*  
 4                *scribed in subparagraph (B) or (C), \$2,000,*

5                *“(B) in the case of any truck or van with*  
 6                *a gross vehicle weight rating greater than 10,000*  
 7                *pounds but not greater than 26,000 pounds,*  
 8                *\$5,000, or*

9                *“(C) \$50,000 in the case of—*

10                *“(i) a truck or van with a gross vehicle*  
 11                *weight rating greater than 26,000 pounds,*  
 12                *or*

13                *“(ii) any bus which has a seating ca-*  
 14                *capacity of at least 20 adults (not including*  
 15                *the driver).”.*

16        ***SEC. 111. ALTERNATIVE MOTOR VEHICLE CREDIT.***

17                *(a) IN GENERAL.—Subpart B of part IV of subchapter*  
 18        *A of chapter 1 (relating to foreign tax credit, etc.) is amend-*  
 19        *ed by adding at the end the following:*

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

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

24                *“(1) the new qualified fuel cell motor vehicle*  
 25        *credit determined under subsection (b), and*

1           “(2) *the advanced lean burn technology motor*  
2           *vehicle credit determined under subsection (c).*

3           “(b) *NEW QUALIFIED FUEL CELL MOTOR VEHICLE*  
4           *CREDIT.—*

5           “(1) *IN GENERAL.—For purposes of subsection*  
6           *(a), the new qualified fuel cell motor vehicle credit de-*  
7           *termined under this subsection with respect to a new*  
8           *qualified fuel cell motor vehicle placed in service by*  
9           *the taxpayer during the taxable year is—*

10           “(A) *\$4,000, if such vehicle has a gross ve-*  
11           *hicle weight rating of not more than 8,500*  
12           *pounds,*

13           “(B) *\$10,000, if such vehicle has a gross ve-*  
14           *hicle weight rating of more than 8,500 pounds*  
15           *but not more than 14,000 pounds,*

16           “(C) *\$20,000, if such vehicle has a gross ve-*  
17           *hicle weight rating of more than 14,000 pounds*  
18           *but not more than 26,000 pounds, and*

19           “(D) *\$40,000, if such vehicle has a gross ve-*  
20           *hicle weight rating of more than 26,000 pounds.*

21           “(2) *INCREASE FOR FUEL EFFICIENCY.—*

22           “(A) *IN GENERAL.—The amount determined*  
23           *under paragraph (1)(A) with respect to a new*  
24           *qualified fuel cell motor vehicle which is a pas-*

1           *senger automobile or light truck shall be in-*  
2           *creased by—*

3                     “(i) \$1,000, if such vehicle achieves at  
4                     least 150 percent but less than 175 percent  
5                     of the 2000 model year city fuel economy,

6                     “(ii) \$1,500, if such vehicle achieves at  
7                     least 175 percent but less than 200 percent  
8                     of the 2000 model year city fuel economy,

9                     “(iii) \$2,000, if such vehicle achieves  
10                    at least 200 percent but less than 225 per-  
11                    cent of the 2000 model year city fuel econ-  
12                    omy,

13                    “(iv) \$2,500, if such vehicle achieves at  
14                    least 225 percent but less than 250 percent  
15                    of the 2000 model year city fuel economy,

16                    “(v) \$3,000, if such vehicle achieves at  
17                    least 250 percent but less than 275 percent  
18                    of the 2000 model year city fuel economy,

19                    “(vi) \$3,500, if such vehicle achieves at  
20                    least 275 percent but less than 300 percent  
21                    of the 2000 model year city fuel economy,  
22                    and

23                    “(vii) \$4,000, if such vehicle achieves  
24                    at least 300 percent of the 2000 model year  
25                    city fuel economy.

1                   “(B) 2000 MODEL YEAR CITY FUEL ECON-  
 2                   OMY.—For purposes of subparagraph (A), the  
 3                   2000 model year city fuel economy with respect  
 4                   to a vehicle shall be determined in accordance  
 5                   with the following tables:

6                                   “(i) In the case of a passenger auto-  
 7                                   mobile:

<b>“If vehicle inertia weight class is:</b>	<b>The 2000 model year city fuel economy is:</b>
1,500 or 1,750 lbs .....	43.7 mpg
2,000 lbs .....	38.3 mpg
2,250 lbs .....	34.1 mpg
2,500 lbs .....	30.7 mpg
2,750 lbs .....	27.9 mpg
3,000 lbs .....	25.6 mpg
3,500 lbs .....	22.0 mpg
4,000 lbs .....	19.3 mpg
4,500 lbs .....	17.2 mpg
5,000 lbs .....	15.5 mpg
5,500 lbs .....	14.1 mpg
6,000 lbs .....	12.9 mpg
6,500 lbs .....	11.9 mpg
7,000 or 8,500 lbs .....	11.1 mpg.

8                                   “(ii) In the case of a light truck:

<b>“If vehicle inertia weight class is:</b>	<b>The 2000 model year city fuel economy is:</b>
1,500 or 1,750 lbs .....	37.6 mpg
2,000 lbs .....	33.7 mpg
2,250 lbs .....	30.6 mpg
2,500 lbs .....	28.0 mpg
2,750 lbs .....	25.9 mpg
3,000 lbs .....	24.1 mpg
3,500 lbs .....	21.3 mpg
4,000 lbs .....	19.0 mpg
4,500 lbs .....	17.3 mpg
5,000 lbs .....	15.8 mpg
5,500 lbs .....	14.6 mpg
6,000 lbs .....	13.6 mpg
6,500 lbs .....	12.8 mpg
7,000 or 8,500 lbs .....	12.0 mpg.

9                                   “(C) VEHICLE INERTIA WEIGHT CLASS.—  
 10                   For purposes of subparagraph (B), the term ‘ve-

1            *hicle inertia weight class' has the same meaning*  
2            *as when defined in regulations prescribed by the*  
3            *Administrator of the Environmental Protection*  
4            *Agency for purposes of the administration of title*  
5            *II of the Clean Air Act (42 U.S.C. 7521 et seq.).*

6            *“(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-*  
7            *CLE.—For purposes of this subsection, the term ‘new*  
8            *qualified fuel cell motor vehicle’ means a motor vehi-*  
9            *cle—*

10            *“(A) which is propelled by power derived*  
11            *from one or more cells which convert chemical*  
12            *energy directly into electricity by combining ox-*  
13            *xygen with hydrogen fuel which is stored on board*  
14            *the vehicle in any form and may or may not re-*  
15            *quire reformation prior to use,*

16            *“(B) which, in the case of a passenger auto-*  
17            *mobile or light truck—*

18            *“(i) for 2004 and later model vehicles,*  
19            *has received a certificate of conformity*  
20            *under the Clean Air Act and meets or ex-*  
21            *ceeds the equivalent qualifying California*  
22            *low emission vehicle standard under section*  
23            *243(e)(2) of the Clean Air Act for that make*  
24            *and model year, and*

1                   “(ii) for 2004 and later model vehicles,  
2                   has received a certificate that such vehicle  
3                   meets or exceeds the Bin 5 Tier II emission  
4                   level established in regulations prescribed by  
5                   the Administrator of the Environmental  
6                   Protection Agency under section 202(i) of  
7                   the Clean Air Act for that make and model  
8                   year vehicle,

9                   “(C) the original use of which commences  
10                  with the taxpayer,

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

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

14                  “(c) *ADVANCED LEAN BURN TECHNOLOGY MOTOR VE-*  
15 *HICLE CREDIT.*—

16                  “(1) *IN GENERAL.*—For purposes of subsection  
17                  (a), the advanced lean burn technology motor vehicle  
18                  credit determined under this subsection with respect  
19                  to a new qualified advanced lean burn technology  
20                  motor vehicle placed in service by the taxpayer dur-  
21                  ing the taxable year is the credit amount determined  
22                  under paragraph (2).

23                  “(2) *CREDIT AMOUNT.*—

1           “(A) *INCREASE FOR FUEL EFFICIENCY.—*

2           *The credit amount determined under this para-*  
3           *graph shall be—*

4                     “(i) \$500, if such vehicle achieves at  
5                     least 125 percent but less than 150 percent  
6                     of the 2000 model year city fuel economy,

7                     “(ii) \$1,000, if such vehicle achieves at  
8                     least 150 percent but less than 175 percent  
9                     of the 2000 model year city fuel economy,

10                    “(iii) \$1,500, if such vehicle achieves  
11                    at least 175 percent but less than 200 per-  
12                    cent of the 2000 model year city fuel econ-  
13                    omy,

14                    “(iv) \$2,000, if such vehicle achieves at  
15                    least 200 percent but less than 225 percent  
16                    of the 2000 model year city fuel economy,

17                    “(v) \$2,500, if such vehicle achieves at  
18                    least 225 percent but less than 250 percent  
19                    of the 2000 model year city fuel economy,  
20                    and

21                    “(vi) \$3,000, if such vehicle achieves at  
22                    least 250 percent of the 2000 model year  
23                    city fuel economy.

24           *For purposes of clause (i), the 2000 model year*  
25           *city fuel economy with respect to a vehicle shall*

1           *be determined using the tables provided in sub-*  
2           *section (b)(2)(B) with respect to such vehicle.*

3           “(B) *CONSERVATION CREDIT.*—*The amount*  
4           *determined under subparagraph (A) with respect*  
5           *to an advanced lean burn technology motor vehi-*  
6           *cle shall be increased by—*

7                   “(i) *\$250, if such vehicle achieves a*  
8                   *lifetime fuel savings of at least 1,500 gallons*  
9                   *of gasoline, and*

10                   “(ii) *\$500, if such vehicle achieves a*  
11                   *lifetime fuel savings of at least 2,500 gallons*  
12                   *of gasoline.*

13           “(C) *OPTION TO USE LIKE VEHICLE.*—*At*  
14           *the option of the vehicle manufacturer, the in-*  
15           *crease for fuel efficiency and conservation credit*  
16           *may be calculated by comparing the new ad-*  
17           *vanced lean-burn technology motor vehicle to a*  
18           *like vehicle.*

19           “(3) *DEFINITIONS.*—*For purposes of this sub-*  
20           *section—*

21                   “(A) *ADVANCED LEAN BURN TECHNOLOGY*  
22                   *MOTOR VEHICLE.*—*The term ‘advanced lean burn*  
23                   *technology motor vehicle’ means a motor vehicle*  
24                   *with an internal combustion engine that—*

1           “(i) is designed to operate primarily  
2           using more air than is necessary for com-  
3           plete combustion of the fuel,

4           “(ii) incorporates direct injection,

5           “(iii) achieves at least 125 percent of  
6           the 2000 model year city fuel economy, and

7           “(iv) for 2004 and later model vehicles,  
8           has received a certificate that such vehicle  
9           meets or exceeds the Bin 8 Tier II emission  
10          level established in regulations prescribed by  
11          the Administrator of the Environmental  
12          Protection Agency under section 202(i) of  
13          the Clean Air Act for that make and model  
14          year vehicle.

15          “(B) *LIKE VEHICLE*.—The term ‘like vehi-  
16          cle’ for an advanced lean burn technology motor  
17          vehicle derived from a conventional production  
18          vehicle produced in the same model year means  
19          a model that is equivalent in the following areas:

20               “(i) *Body style (2-door or 4-door)*.

21               “(ii) *Transmission (automatic or man-*  
22               *ual)*.

23               “(iii) *Acceleration performance ( $\pm$  0.05*  
24               *seconds)*.

1                   “(iv) *Drivetrain (2-wheel drive or 4-*  
2                   *wheel drive).*

3                   “(v) *Certification by the Administrator*  
4                   *of the Environmental Protection Agency.*

5                   “(C) *LIFETIME FUEL SAVINGS.—The term*  
6                   *‘lifetime fuel savings’ shall be calculated by di-*  
7                   *viding 120,000 by the difference between the*  
8                   *2000 model year city fuel economy for the vehicle*  
9                   *inertia weight class and the city fuel economy*  
10                  *for the new qualified hybrid motor vehicle.*

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

14                         “(1) *the sum of the regular tax liability (as de-*  
15                         *finied in section 26(b)) plus the tax imposed by section*  
16                         *55, over*

17                         “(2) *the sum of the credits allowable under sub-*  
18                         *part A and sections 27, 29, and 30A for the taxable*  
19                         *year.*

20                  “(e) *OTHER DEFINITIONS AND SPECIAL RULES.—For*  
21                  *purposes of this section—*

22                         “(1) *CONSUMABLE FUEL.—The term ‘consumable*  
23                         *fuel’ means any solid, liquid, or gaseous matter which*  
24                         *releases energy when consumed by an auxiliary power*  
25                         *unit.*

1           “(2) *MOTOR VEHICLE*.—The term ‘motor vehicle’  
2           has the meaning given such term by section 30(c)(2).

3           “(3) *2000 MODEL YEAR CITY FUEL ECONOMY*.—  
4           The 2000 model year city fuel economy with respect  
5           to any vehicle shall be measured under rules similar  
6           to the rules under section 4064(c).

7           “(4) *OTHER TERMS*.—The terms ‘automobile’,  
8           ‘passenger automobile’, ‘light truck’, and ‘manufac-  
9           turer’ have the meanings given such terms in regula-  
10          tions prescribed by the Administrator of the Environ-  
11          mental Protection Agency for purposes of the admin-  
12          istration of title II of the Clean Air Act (42 U.S.C.  
13          7521 *et seq.*).

14          “(5) *REDUCTION IN BASIS*.—For purposes of this  
15          subtitle, if a credit is allowed under this section for  
16          any expenditure with respect to any property, the in-  
17          crease in the basis of such property which would (but  
18          for this paragraph) result from such expenditure shall  
19          be reduced by the amount of the credit so allowed.

20          “(6) *NO DOUBLE BENEFIT*.—The amount of any  
21          deduction or credit allowable under this chapter  
22          (other than the credit allowable under this section),  
23          with respect to a vehicle described under subsection  
24          (b), shall be reduced by the amount of credit allowed

1       *under subsection (a) for such vehicle for the taxable*  
2       *year.*

3               “(7) *PROPERTY USED BY TAX-EXEMPT ENTI-*  
4       *TIES.—In the case of a credit amount which is allow-*  
5       *able with respect to a motor vehicle which is acquired*  
6       *by an entity exempt from tax under this chapter, the*  
7       *person which sells or leases such vehicle to the entity*  
8       *shall be treated as the taxpayer with respect to the ve-*  
9       *hicle for purposes of this section and the credit shall*  
10       *be allowed to such person, but only if the person*  
11       *clearly discloses to the entity in any sale or lease doc-*  
12       *ument the specific amount of any credit otherwise al-*  
13       *lowable to the entity under this section.*

14               “(8) *RECAPTURE.—The Secretary shall, by regu-*  
15       *lations, 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 lease*  
19       *period of less than the economic life of a vehicle).*

20               “(9) *PROPERTY USED OUTSIDE UNITED STATES,*  
21       *ETC., NOT QUALIFIED.—No credit shall be allowed*  
22       *under subsection (a) with respect to any property re-*  
23       *ferred to in section 50(b) or with respect to the por-*  
24       *tion of the cost of any property taken into account*  
25       *under section 179.*

1           “(10) *ELECTION TO NOT TAKE CREDIT.*—No  
2           *credit shall be allowed under subsection (a) for any*  
3           *vehicle if the taxpayer elects to not have this section*  
4           *apply to such vehicle.*

5           “(11) *CARRYFORWARD ALLOWED.*—

6           “(A) *IN GENERAL.*—*If the credit amount al-*  
7           *lowable under subsection (a) for a taxable year*  
8           *exceeds the amount of the limitation under sub-*  
9           *section (d) for such taxable year (referred to as*  
10           *the ‘unused credit year’ in this paragraph), such*  
11           *excess shall be allowed as a credit carryforward*  
12           *for each of the 20 taxable years following the un-*  
13           *used credit year.*

14           “(B) *RULES.*—*Rules similar to the rules of*  
15           *section 39 shall apply with respect to the credit*  
16           *carryforward under subparagraph (A).*

17           “(12) *INTERACTION WITH AIR QUALITY AND*  
18           *MOTOR VEHICLE SAFETY STANDARDS.*—*Unless other-*  
19           *wise provided in this section, a motor vehicle shall*  
20           *not be considered eligible for a credit under this sec-*  
21           *tion unless such vehicle is in compliance with—*

22           “(A) *the applicable provisions of the Clean*  
23           *Air Act for the applicable make and model year*  
24           *of the vehicle (or applicable air quality provi-*  
25           *sions of State law in the case of a State which*

1           *has adopted such provision under a waiver*  
2           *under section 209(b) of the Clean Air Act), and*

3           “(B) *the motor vehicle safety provisions of*  
4           *sections 30101 through 30169 of title 49, United*  
5           *States Code.*

6           “(f) *REGULATIONS.—*

7           “(1) *IN GENERAL.—The Secretary shall promul-*  
8           *gate such regulations as necessary to carry out the*  
9           *provisions of this section.*

10           “(2) *DETERMINATION OF MOTOR VEHICLE ELIGI-*  
11           *BILITY.—The Secretary, in coordination with the Sec-*  
12           *retary of Transportation and the Administrator of the*  
13           *Environmental Protection Agency, shall prescribe*  
14           *such regulations as necessary to determine whether a*  
15           *motor vehicle meets the requirements to be eligible for*  
16           *a credit under this section.*

17           “(g) *TERMINATION.—This section shall not apply to*  
18           *any property placed in service after—*

19           “(1) *in the case of a new qualified fuel cell motor*  
20           *vehicle (as described in subsection (b)), December 31,*  
21           *2012, and*

22           “(2) *in the case of any other property, December*  
23           *31, 2006.”.*

24           “(b) *CONFORMING AMENDMENTS.—*

1           (1) *Section 1016(a) is amended by striking*  
2           *“and” at the end of paragraph (30), by striking the*  
3           *period at the end of paragraph (31) and inserting “,*  
4           *and”, and by adding at the end the following:*

5                     *“(32) to the extent provided in section*  
6           *30B(e)(5).”.*

7           (2) *Section 6501(m) is amended by inserting*  
8           *“30B(e)(10),” after “30(d)(4),”.*

9           (3) *The table of sections for subpart B of part IV*  
10          *of subchapter A of chapter 1 is amended by inserting*  
11          *after the item relating to section 30A the following:*

*“Sec. 30B. Alternative motor vehicle credit.”.*

12          (c) *EFFECTIVE DATE.—The amendments made by this*  
13          *section shall apply to property placed in service after De-*  
14          *cember 31, 2003, in taxable years ending after such date.*

## 15                           **TITLE II—RELIABILITY**

16          **SEC. 201. NATURAL GAS GATHERING LINES TREATED AS 7-**  
17                           **YEAR PROPERTY.**

18          (a) *IN GENERAL.—Subparagraph (C) of section*  
19          *168(e)(3) (relating to classification of certain property) is*  
20          *amended by striking “and” at the end of clause (i), by re-*  
21          *designating clause (ii) as clause (iii), and by inserting after*  
22          *clause (i) the following new clause:*

23                           *“(i) any natural gas gathering line,*  
24                           *and”.*

1           (b) *NATURAL GAS GATHERING LINE*.—Subsection (i)  
 2 of section 168 is amended by adding after paragraph (15)  
 3 the following new paragraph:

4           “(16) *NATURAL GAS GATHERING LINE*.—The  
 5 term ‘natural gas gathering line’ means—

6                   “(A) the pipe, equipment, and appur-  
 7 tenances determined to be a gathering line by the  
 8 Federal Energy Regulatory Commission, or

9                   “(B) the pipe, equipment, and appur-  
 10 tenances used to deliver natural gas from the  
 11 wellhead or a commonpoint to the point at which  
 12 such gas first reaches—

13                           “(i) a gas processing plant,

14                           “(ii) an interconnection with a trans-  
 15 mission pipeline certificated by the Federal  
 16 Energy Regulatory Commission as an  
 17 interstate transmission pipeline,

18                           “(iii) an interconnection with an  
 19 intrastate transmission pipeline, or

20                           “(iv) a direct interconnection with a  
 21 local distribution company, a gas storage  
 22 facility, or an industrial consumer.”.

23           (c) *ALTERNATIVE SYSTEM*.—The table contained in  
 24 section 168(g)(3)(B) is amended by inserting after the item  
 25 relating to subparagraph (C)(i) the following:

“(C)(i) ..... 10”.

1       (d) *ALTERNATIVE MINIMUM TAX EXCEPTION.*—Sub-  
 2 paragraph (B) of section 56(a)(1) is amended by inserting  
 3 before the period the following: “, or in section  
 4 168(e)(3)(C)(ii)”.

5       (e) *EFFECTIVE DATE.*—The amendments made by this  
 6 section shall apply to property placed in service after the  
 7 date of the enactment of this Act, in taxable years ending  
 8 after such date.

9       **SEC. 202. NATURAL GAS DISTRIBUTION LINES TREATED AS**  
 10                                   **15-YEAR PROPERTY.**

11       (a) *IN GENERAL.*—Subparagraph (E) of section  
 12 168(e)(3) (relating to classification of certain property) is  
 13 amended by striking “and” at the end of clause (ii), by  
 14 striking the period at the end of clause (iii) and by insert-  
 15 ing “, and”, and by adding at the end the following new  
 16 clause:

17                                   “(iv) any natural gas distribution  
 18                                   line.”.

19       (b) *ALTERNATIVE SYSTEM.*—The table contained in  
 20 section 168(g)(3)(B) is amended by inserting after the item  
 21 relating to subparagraph (E)(iii) the following:

“(E)(iv) ..... 20”.

22       (c) *ALTERNATIVE MINIMUM TAX EXCEPTION.*—Sub-  
 23 paragraph (B) of section 56(a)(1) is amended by inserting  
 24 before the period the following: “, or in section  
 25 168(e)(3)(E)(iv)”.

1       (d) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to property placed in service after the*  
 3 *date of the enactment of this Act, in taxable years ending*  
 4 *after such date.*

5       **SEC. 203. ELECTRIC TRANSMISSION PROPERTY TREATED**  
 6                                   **AS 15-YEAR PROPERTY.**

7       (a) *IN GENERAL.*—*Subparagraph (E) of section*  
 8 *168(e)(3) (relating to classification of certain property) is*  
 9 *amended by striking “and” at the end of clause (iii), by*  
 10 *striking the period at the end of clause (iv) and by inserting*  
 11 *“; and”, and by adding at the end the following new clause:*

12                                   “(v) *any section 1245 property (as de-*  
 13                                   *defined in section 1245(a)(3)) used in the*  
 14                                   *transmission at 69 or more kilovolts of elec-*  
 15                                   *tricity for sale.”.*

16       (b) *ALTERNATIVE SYSTEM.*—*The table contained in*  
 17 *section 168(g)(3)(B) is amended by inserting after the item*  
 18 *relating to subparagraph (E)(iv) the following:*

“(E)(v) ..... 20”.

19       (c) *ALTERNATIVE MINIMUM TAX EXCEPTION.*—*Sub-*  
 20 *paragraph (B) of section 56(a)(1) is amended by inserting*  
 21 *before the period the following: “; or in section*  
 22 *168(e)(3)(E)(v)”.*

23       (d) *EFFECTIVE DATE.*—*The amendments made by this*  
 24 *section shall apply to property placed in service after the*

1 *date of the enactment of this Act, in taxable years ending*  
2 *after such date.*

3 **SEC. 204. EXPENSING OF CAPITAL COSTS INCURRED IN**  
4 **COMPLYING WITH ENVIRONMENTAL PROTEC-**  
5 **TION AGENCY SULFUR REGULATIONS.**

6 (a) *IN GENERAL.*—Part VI of subchapter B of chapter  
7 1 (relating to itemized deductions for individuals and cor-  
8 porations) is amended by inserting after section 179A the  
9 following new section:

10 **“SEC. 179B. DEDUCTION FOR CAPITAL COSTS INCURRED IN**  
11 **COMPLYING WITH ENVIRONMENTAL PROTEC-**  
12 **TION AGENCY SULFUR REGULATIONS.**

13 “(a) *TREATMENT AS EXPENSES.*—A small business re-  
14 finer (as defined in section 45H(c)(1)) may elect to treat  
15 75 percent of qualified capital costs (as defined in section  
16 45H(c)(2)) which are paid or incurred by the taxpayer dur-  
17 ing the taxable year as expenses which are not chargeable  
18 to capital account. Any cost so treated shall be allowed as  
19 a deduction for the taxable year in which paid or incurred.

20 “(b) *REDUCED PERCENTAGE.*—In the case of a small  
21 business refiner with average daily domestic refinery runs  
22 for the 1-year period ending on March 31, 2003, in excess  
23 of 155,000 barrels, the number of percentage points de-  
24 scribed in subsection (a) shall be reduced (not below zero)  
25 by the product of such number (before the application of

1 *this subsection) and the ratio of such excess to 50,000 bar-*  
2 *rels.*

3 “(c) *BASIS REDUCTION.*—

4 “(1) *IN GENERAL.*—*For purposes of this title, the*  
5 *basis of any property shall be reduced by the portion*  
6 *of the cost of such property taken into account under*  
7 *subsection (a).*

8 “(2) *ORDINARY INCOME RECAPTURE.*—*For pur-*  
9 *poses of section 1245, the amount of the deduction al-*  
10 *lowable under subsection (a) with respect to any*  
11 *property which is of a character subject to the allow-*  
12 *ance for depreciation shall be treated as a deduction*  
13 *allowed for depreciation under section 167.”.*

14 (b) *CONFORMING AMENDMENTS.*—

15 (1) *Section 263(a)(1) is amended by striking*  
16 *“or” at the end of subparagraph (G), by striking the*  
17 *period at the end of subparagraph (H) and inserting*  
18 *“; or”, and by adding at the end the following new*  
19 *subparagraph:*

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

22 (2) *Section 312(k)(3)(B) is amended—*

23 (A) *by striking “section 179 or 179A” each*  
24 *place it appears and inserting “section 179,*  
25 *179A, or 179B”, and*



1 **“SEC. 45H. CREDIT FOR PRODUCTION OF LOW SULFUR DIE-**  
2 **SEL FUEL.**

3 “(a) *IN GENERAL.*—For purposes of section 38, the  
4 amount of the low sulfur diesel fuel production credit deter-  
5 mined under this section with respect to any facility of a  
6 small business refiner is an amount equal to 5 cents for  
7 each gallon of low sulfur diesel fuel produced during the  
8 taxable year by such small business refiner at such facility.

9 “(b) *MAXIMUM CREDIT.*—

10 “(1) *IN GENERAL.*—The aggregate credit deter-  
11 mined under subsection (a) for any taxable year with  
12 respect to any facility shall not exceed—

13 “(A) 25 percent of the qualified capital costs  
14 incurred by the small business refiner with re-  
15 spect to such facility, reduced by

16 “(B) the aggregate credits determined under  
17 this section for all prior taxable years with re-  
18 spect to such facility.

19 “(2) *REDUCED PERCENTAGE.*—In the case of a  
20 small business refiner with average daily domestic re-  
21 finery runs for the 1-year period ending on March 31,  
22 2003, in excess of 155,000 barrels, the number of per-  
23 centage points described in paragraph (1) shall be re-  
24 duced (not below zero) by the product of such number  
25 (before the application of this paragraph) and the  
26 ratio of such excess to 50,000 barrels.

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

2 “(1) *SMALL BUSINESS REFINER.*—*The term*  
3 *‘small business refiner’ means, with respect to any*  
4 *taxable year, a refiner of crude oil with respect to*  
5 *which not more than 1,500 persons are engaged in the*  
6 *refinery operations of the business on any day during*  
7 *such taxable year and whose average daily domestic*  
8 *refinery run for the 1-year period ending on March*  
9 *31, 2003, did not exceed 205,000 barrels.*

10 “(2) *QUALIFIED CAPITAL COSTS.*—*The term*  
11 *‘qualified capital costs’ means, with respect to any fa-*  
12 *cility, those costs paid or incurred during the appli-*  
13 *cable period for compliance with the applicable EPA*  
14 *regulations with respect to such facility, including ex-*  
15 *penditures for the construction of new process oper-*  
16 *ation units or the dismantling and reconstruction of*  
17 *existing process units to be used in the production of*  
18 *low sulfur diesel fuel, associated adjacent or offsite*  
19 *equipment (including tankage, catalyst, and power*  
20 *supply), engineering, construction period interest,*  
21 *and sitework.*

22 “(3) *APPLICABLE EPA REGULATIONS.*—*The term*  
23 *‘applicable EPA regulations’ means the Highway*  
24 *Diesel Fuel Sulfur Control Requirements of the Envi-*  
25 *ronmental Protection Agency.*

1           “(4) *APPLICABLE PERIOD.*—The term ‘applicable  
2           period’ means, with respect to any facility, the period  
3           beginning on April 1, 2003, and ending with the date  
4           which is 1 year after the date on which the taxpayer  
5           must comply with the applicable EPA regulations  
6           with respect to such facility.

7           “(5) *LOW SULFUR DIESEL FUEL.*—The term ‘low  
8           sulfur diesel fuel’ means diesel fuel with a sulfur con-  
9           tent of 15 parts per million or less.

10          “(d) *REDUCTION IN BASIS.*—For purposes of this sub-  
11          title, if a credit is determined under this section for any  
12          expenditure with respect to any property, the increase in  
13          basis of such property which would (but for this subsection)  
14          result from such expenditure shall be reduced by the amount  
15          of the credit so determined.

16          “(e) *CERTIFICATION.*—

17                 “(1) *REQUIRED.*—Not later than the date which  
18                 is 30 months after the first day of the first taxable  
19                 year in which the low sulfur diesel fuel production  
20                 credit is allowed with respect to a facility, the small  
21                 business refiner must obtain certification from the  
22                 Secretary, in consultation with the Administrator of  
23                 the Environmental Protection Agency, that the tax-  
24                 payer’s qualified capital costs with respect to such fa-

1        *cility will result in compliance with the applicable*  
2        *EPA regulations.*

3            “(2) *CONTENTS OF APPLICATION.*—*An applica-*  
4        *tion for certification shall include relevant informa-*  
5        *tion regarding unit capacities and operating charac-*  
6        *teristics sufficient for the Secretary, in consultation*  
7        *with the Administrator of the Environmental Protec-*  
8        *tion Agency, to determine that such qualified capital*  
9        *costs are necessary for compliance with the applicable*  
10       *EPA regulations.*

11           “(3) *REVIEW PERIOD.*—*Any application shall be*  
12       *reviewed and notice of certification, if applicable,*  
13       *shall be made within 60 days of receipt of such appli-*  
14       *cation.*

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

17           “(A) *the statutory period for the assessment*  
18       *of any deficiency attributable to such credit shall*  
19       *not expire before the end of the 3-year period*  
20       *ending on the date that the review period de-*  
21       *scribed in paragraph (3) ends, and*

22           “(B) *such deficiency may be assessed before*  
23       *the expiration of such 3-year period notwith-*  
24       *standing the provisions of any other law or rule*

1           of law which would otherwise prevent such as-  
2           essment.

3           “(f) *CONTROLLED GROUPS*.—For purposes of this sec-  
4           tion, all persons treated as a single employer under sub-  
5           section (b), (c), (m), or (o) of section 414 shall be treated  
6           as 1 taxpayer.”.

7           (b) *CREDIT MADE PART OF GENERAL BUSINESS*  
8           *CREDIT*.—Subsection (b) of section 38 (relating to general  
9           business credit) is amended by striking “plus” at the end  
10          of paragraph (15), by striking the period at the end of para-  
11          graph (16) and inserting “, plus”, and by adding at the  
12          end the following new paragraph:

13                 “(17) in the case of a small business refiner, the  
14                 low sulfur diesel fuel production credit determined  
15                 under section 45H(a).”.

16          (c) *DENIAL OF DOUBLE BENEFIT*.—Section 280C (re-  
17          lating to certain expenses for which credits are allowable)  
18          is amended by adding after subsection (d) the following new  
19          subsection:

20                 “(e) *LOW SULFUR DIESEL FUEL PRODUCTION CRED-*  
21                 *IT*.—No deduction shall be allowed for that portion of the  
22                 expenses otherwise allowable as a deduction for the taxable  
23                 year which is equal to the amount of the credit determined  
24                 for the taxable year under section 45H(a).”.

1           (d) *BASIS ADJUSTMENT.*—Section 1016(a) (relating to  
2 adjustments to basis) is amended by striking “and” at the  
3 end of paragraph (32), by striking the period at the end  
4 of paragraph (33) and inserting “, and”, and by adding  
5 at the end the following new paragraph:

6           “(34) in the case of a facility with respect to  
7 which a credit was allowed under section 45H, to the  
8 extent provided in section 45H(d).”.

9           (e) *CLERICAL AMENDMENT.*—The table of sections for  
10 subpart D of part IV of subchapter A of chapter 1 is amend-  
11 ed by adding at the end the following new item:

                  “Sec. 45H. Credit for production of low sulfur diesel fuel.”.

12           (f) *EFFECTIVE DATE.*—The amendments made by this  
13 section shall apply to expenses paid or incurred after March  
14 31, 2003, in taxable years ending after such date.

15   **SEC. 206. DETERMINATION OF SMALL REFINER EXCEPTION**  
16                           **TO OIL DEPLETION DEDUCTION.**

17           (a) *IN GENERAL.*—Paragraph (4) of section 613A(d)  
18 (relating to certain refiners excluded) is amended to read  
19 as follows:

20           “(4) *CERTAIN REFINERS EXCLUDED.*—If the tax-  
21 payer or a related person engages in the refining of  
22 crude oil, subsection (c) shall not apply to the tax-  
23 payer for a taxable year if the average daily refinery  
24 runs of the taxpayer and the related person for the  
25 taxable year exceed 75,000 barrels. For purposes of



1           the 4-year period beginning on such date,  
2           reduced (but not below zero) by

3                   “(ii) any portion of such cost pre-  
4                   viously taken into account under this sub-  
5                   section, and

6                   “(B) ratably over the 8-taxable year period  
7                   beginning with the taxable year which includes  
8                   the date of such transaction, in the case of any  
9                   such gain not recognized under subparagraph  
10                  (A).

11                  “(2) *QUALIFIED GAIN.*—For purposes of this sub-  
12                  section, the term ‘qualified gain’ means, with respect  
13                  to any qualifying electric transmission transaction in  
14                  any taxable year—

15                          “(A) any ordinary income derived from  
16                          such transaction which would be required to be  
17                          recognized under section 1245 or 1250 for such  
18                          taxable year (determined without regard to this  
19                          subsection), and

20                          “(B) any income derived from such trans-  
21                          action in excess of the amount described in sub-  
22                          paragraph (A) which is required to be included  
23                          in gross income for such taxable year (deter-  
24                          mined without regard to this subsection).

1           “(3) *QUALIFYING ELECTRIC TRANSMISSION*  
2           *TRANSACTION.*—*For purposes of this subsection, the*  
3           *term ‘qualifying electric transmission transaction’*  
4           *means any sale or other disposition before January 1,*  
5           *2007, of—*

6                     “(A) *property used in the trade or business*  
7                     *of providing electric transmission services, or*

8                     “(B) *any stock or partnership interest in a*  
9                     *corporation or partnership, as the case may be,*  
10                    *whose principal trade or business consists of pro-*  
11                    *viding electric transmission services,*  
12            *but only if such sale or disposition is to an inde-*  
13            *pendent transmission company.*

14           “(4) *INDEPENDENT TRANSMISSION COMPANY.*—  
15           *For purposes of this subsection, the term ‘independent*  
16           *transmission company’ means—*

17                     “(A) *an independent transmission provider*  
18                     *approved by the Federal Energy Regulatory*  
19                     *Commission,*

20                     “(B) *a person—*

21                             “(i) *who the Federal Energy Regu-*  
22                             *latory Commission determines in its au-*  
23                             *thorization of the transaction under section*  
24                             *203 of the Federal Power Act (16 U.S.C.*  
25                             *824b) or by declaratory order is not a mar-*

1            *ket participant within the meaning of such*  
2            *Commission’s rules applicable to inde-*  
3            *pendent transmission providers, and*

4            *“(ii) whose transmission facilities to*  
5            *which the election under this subsection ap-*  
6            *plies are under the operational control of a*  
7            *Federal Energy Regulatory Commission-ap-*  
8            *proved independent transmission provider*  
9            *before the close of the period specified in*  
10           *such authorization, but not later than the*  
11           *close of the period applicable under sub-*  
12           *section (a)(2)(B) as extended under para-*  
13           *graph (2), or*

14           *“(C) in the case of facilities subject to the*  
15           *jurisdiction of the Public Utility Commission of*  
16           *Texas—*

17           *“(i) a person which is approved by*  
18           *that Commission as consistent with Texas*  
19           *State law regarding an independent trans-*  
20           *mission provider, or*

21           *“(ii) a political subdivision or affiliate*  
22           *thereof whose transmission facilities are*  
23           *under the operational control of a person*  
24           *described in clause (i).*

1           “(5) *EXEMPT UTILITY PROPERTY.*—*For purposes*  
2 *of this subsection—*

3           “(A) *IN GENERAL.*—*The term ‘exempt util-*  
4 *ity property’ means property used in the trade*  
5 *or business of—*

6           “(i) *generating, transmitting, distrib-*  
7 *uting, or selling electricity, or*

8           “(ii) *producing, transmitting, distrib-*  
9 *uting, or selling natural gas.*

10          “(B) *NONRECOGNITION OF GAIN BY REASON*  
11 *OF ACQUISITION OF STOCK.*—*Acquisition of con-*  
12 *trol of a corporation shall be taken into account*  
13 *under this subsection with respect to a qualifying*  
14 *electric transmission transaction only if the*  
15 *principal trade or business of such corporation is*  
16 *a trade or business referred to in subparagraph*  
17 *(A).*

18          “(6) *SPECIAL RULE FOR CONSOLIDATED*  
19 *GROUPS.*—*In the case of a corporation which is a*  
20 *member of an affiliated group filing a consolidated*  
21 *return, any exempt utility property purchased by an-*  
22 *other member of such group shall be treated as pur-*  
23 *chased by such corporation for purposes of applying*  
24 *paragraph (1)(A).*

1           “(7) *TIME FOR ASSESSMENT OF DEFICI-*  
2           *CIENCIES.—If the taxpayer has made the election*  
3           *under paragraph (1) and any gain is recognized by*  
4           *such taxpayer as provided in paragraph (1)(B),*  
5           *then—*

6                     “(A) *the statutory period for the assessment*  
7                     *of any deficiency, for any taxable year in which*  
8                     *any part of the gain on the transaction is real-*  
9                     *ized, attributable to such gain shall not expire*  
10                    *prior to the expiration of 3 years from the date*  
11                    *the Secretary is notified by the taxpayer (in such*  
12                    *manner as the Secretary may by regulations pre-*  
13                    *scribe) of the purchase of exempt utility property*  
14                    *or of an intention not to purchase such property,*  
15                    *and*

16                    “(B) *such deficiency may be assessed before*  
17                    *the expiration of such 3-year period notwith-*  
18                    *standing any law or rule of law which would*  
19                    *otherwise prevent such assessment.*

20           “(8) *PURCHASE.—For purposes of this sub-*  
21           *section, the taxpayer shall be considered to have pur-*  
22           *chased any property if the unadjusted basis of such*  
23           *property is its cost within the meaning of section*  
24           *1012.*

1           “(9) *ELECTION*.—An election under paragraph  
2           (1) shall be made at such time and in such manner  
3           as the Secretary may require and, once made, shall  
4           be irrevocable.”.

5           (b) *EFFECTIVE DATE*.—The amendments made by this  
6           section shall apply to transactions occurring after the date  
7           of the enactment of this Act, in taxable years ending after  
8           such date.

9           **SEC. 208. MODIFICATIONS TO SPECIAL RULES FOR NU-**  
10           **CLEAR DECOMMISSIONING COSTS.**

11           (a) *REPEAL OF LIMITATION ON DEPOSITS INTO FUND*  
12           *BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER*  
13           *FUNDING PERIOD*.—Subsection (b) of section 468A is  
14           amended to read as follows:

15           “(b) *LIMITATION ON AMOUNTS PAID INTO FUND*.—

16           “(1) *IN GENERAL*.—The amount which a tax-  
17           payer may pay into the Fund for any taxable year  
18           shall not exceed the ruling amount applicable to such  
19           taxable year.

20           “(2) *CONTRIBUTIONS AFTER FUNDING PERIOD*.—

21           Notwithstanding any other provision of this section,  
22           a taxpayer may pay into the Fund in any taxable  
23           year after the last taxable year to which the ruling  
24           amount applies. Payments may not be made under  
25           the preceding sentence to the extent such payments

1       *would cause the assets of the Fund to exceed the nu-*  
2       *clear decommissioning costs allocable to the tax-*  
3       *payer's current or former interest in the nuclear*  
4       *power plant to which the Fund relates. The limitation*  
5       *under the preceding sentence shall be determined by*  
6       *taking into account a reasonable rate of inflation for*  
7       *the nuclear decommissioning costs and a reasonable*  
8       *after-tax rate of return on the assets of the Fund until*  
9       *such assets are anticipated to be expended.”.*

10       ***(b) CLARIFICATION OF TREATMENT OF FUND TRANS-***  
11       ***FERS.—Subsection (e) of section 468A is amended by add-***  
12       ***ing at the end the following new paragraph:***

13               ***“(8) TREATMENT OF FUND TRANSFERS.—If, in***  
14               ***connection with the transfer of the taxpayer's interest***  
15               ***in a nuclear power plant, the taxpayer transfers the***  
16               ***Fund with respect to such power plant to the trans-***  
17               ***feree of such interest and the transferee elects to con-***  
18               ***tinue the application of this section to such Fund—***

19                       ***“(A) the transfer of such Fund shall not***  
20                       ***cause such Fund to be disqualified from the ap-***  
21                       ***plication of this section, and***

22                       ***“(B) no amount shall be treated as distrib-***  
23                       ***uted from such Fund, or be includible in gross***  
24                       ***income, by reason of such transfer.”.***

1       (c) *TREATMENT OF CERTAIN DECOMMISSIONING*  
2 *COSTS.—*

3           (1) *IN GENERAL.—*Section 468A is amended by  
4 *redesignating subsections (f) and (g) as subsections*  
5 *(g) and (h), respectively, and by inserting after sub-*  
6 *section (e) the following new subsection:*

7       “(f) *TRANSFERS INTO QUALIFIED FUNDS.—*

8           “(1) *IN GENERAL.—*Notwithstanding subsection  
9 *(b), any taxpayer maintaining a Fund to which this*  
10 *section applies with respect to a nuclear power plant*  
11 *may transfer into such Fund up to an amount equal*  
12 *to the excess of the total nuclear decommissioning*  
13 *costs with respect to such nuclear power plant over*  
14 *the portion of such costs taken into account in deter-*  
15 *mining the ruling amount in effect immediately be-*  
16 *fore the transfer.*

17       “(2) *DEDUCTION FOR AMOUNTS TRANS-*  
18 *FERRED.—*

19           “(A) *IN GENERAL.—*Except as provided in  
20 *subparagraph (C), the deduction allowed by sub-*  
21 *section (a) for any transfer permitted by this*  
22 *subsection shall be allowed ratably over the re-*  
23 *maining estimated useful life (within the mean-*  
24 *ing of subsection (d)(2)(A)) of the nuclear power*

1           *plant beginning with the taxable year during*  
2           *which the transfer is made.*

3           “(B) *DENIAL OF DEDUCTION FOR PRE-*  
4           *VIOUSLY DEDUCTED AMOUNTS.—No deduction*  
5           *shall be allowed for any transfer under this sub-*  
6           *section of an amount for which a deduction was*  
7           *previously allowed or a corresponding amount*  
8           *was not included in gross income. For purposes*  
9           *of the preceding sentence, a ratable portion of*  
10           *each transfer shall be treated as being from pre-*  
11           *viously deducted or excluded amounts to the ex-*  
12           *tent thereof.*

13           “(C) *TRANSFERS OF QUALIFIED FUNDS.—*  
14           *If—*

15                   “(i) *any transfer permitted by this*  
16                   *subsection is made to any Fund to which*  
17                   *this section applies, and*

18                   “(ii) *such Fund is transferred there-*  
19                   *after,*

20           *any deduction under this subsection for taxable*  
21           *years ending after the date that such Fund is*  
22           *transferred shall be allowed to the transferor for*  
23           *the taxable year which includes such date.*

24           “(D) *SPECIAL RULES.—*

1                   “(i) *GAIN OR LOSS NOT RECOG-*  
2                   *NIZED.—No gain or loss shall be recognized*  
3                   *on any transfer permitted by this sub-*  
4                   *section.*

5                   “(ii) *TRANSFERS OF APPRECIATED*  
6                   *PROPERTY.—If appreciated property is*  
7                   *transferred in a transfer permitted by this*  
8                   *subsection, the amount of the deduction*  
9                   *shall be the adjusted basis of such property.*

10                   “(3) *NEW RULING AMOUNT REQUIRED.—Para-*  
11                   *graph (1) shall not apply to any transfer unless the*  
12                   *taxpayer requests from the Secretary a new schedule*  
13                   *of ruling amounts in connection with such transfer.*

14                   “(4) *NO BASIS IN QUALIFIED FUNDS.—Notwith-*  
15                   *standing any other provision of law, the taxpayer’s*  
16                   *basis in any Fund to which this section applies shall*  
17                   *not be increased by reason of any transfer permitted*  
18                   *by this subsection.”.*

19                   (2) *NEW RULING AMOUNT TO TAKE INTO AC-*  
20                   *COUNT TOTAL COSTS.—Subparagraph (A) of section*  
21                   *468A(d)(2) is amended to read as follows:*

22                   “(A) *fund the total nuclear decommis-*  
23                   *sioning costs with respect to such power plant*  
24                   *over the estimated useful life of such power plant,*  
25                   *and”.*

1           (d) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to taxable years beginning after Decem-*  
3 *ber 31, 2003.*

4 ***SEC. 209. TREATMENT OF CERTAIN INCOME OF COOPERA-***  
5 ***TIVES.***

6           (a) *INCOME FROM OPEN ACCESS AND NUCLEAR DE-*  
7 *COMMISSIONING TRANSACTIONS.*—

8                   (1) *IN GENERAL.*—*Subparagraph (C) of section*  
9 *501(c)(12) is amended by striking “or” at the end of*  
10 *clause (i), by striking clause (ii), and by adding at*  
11 *the end the following new clauses:*

12                                   “(ii) *from any provision or sale of*  
13 *transmission service or ancillary services if*  
14 *such services are provided on a nondiscrim-*  
15 *inatory open access basis under an inde-*  
16 *pendent transmission provider agreement*  
17 *approved by FERC (other than income re-*  
18 *ceived or accrued directly or indirectly from*  
19 *a member),*

20                                   “(iii) *from any nuclear decommis-*  
21 *sioning transaction, or*

22                                   “(iv) *from any asset exchange or con-*  
23 *version transaction.”.*

1           (2) *DEFINITIONS AND SPECIAL RULES.—Para-*  
2 *graph (12) of section 501(c) is amended by adding at*  
3 *the end the following new subparagraphs:*

4           “(E) *For purposes of subparagraph (C)(ii),*  
5 *the term ‘FERC’ means the Federal Energy Reg-*  
6 *ulatory Commission and references to such term*  
7 *shall be treated as including the Public Utility*  
8 *Commission of Texas with respect to any*  
9 *ERCOT utility (as defined in section*  
10 *212(k)(2)(B) of the Federal Power Act (16*  
11 *U.S.C. 824k(k)(2)(B)).*

12           “(F) *For purposes of subparagraph (C)(iii),*  
13 *the term ‘nuclear decommissioning transaction’*  
14 *means—*

15           “(i) *any transfer into a trust, fund, or*  
16 *instrument established to pay any nuclear*  
17 *decommissioning costs if the transfer is in*  
18 *connection with the transfer of the mutual*  
19 *or cooperative electric company’s interest in*  
20 *a nuclear power plant or nuclear power*  
21 *plant unit,*

22           “(ii) *any distribution from any trust,*  
23 *fund, or instrument established to pay any*  
24 *nuclear decommissioning costs, or*

1                   “(iii) any earnings from any trust,  
2                   fund, or instrument established to pay any  
3                   nuclear decommissioning costs.

4                   “(G) For purposes of subparagraph (C)(iv),  
5                   the term ‘asset exchange or conversion trans-  
6                   action’ means any voluntary exchange or invol-  
7                   untary conversion of any property related to  
8                   generating, transmitting, distributing, or selling  
9                   electric energy by a mutual or cooperative elec-  
10                  tric company, the gain from which qualifies for  
11                  deferred recognition under section 1031 or 1033,  
12                  but only if the replacement property acquired by  
13                  such company pursuant to such section con-  
14                  stitutes property which is used, or to be used,  
15                  for—

16                   “(i) generating, transmitting, distrib-  
17                   uting, or selling electric energy, or

18                   “(ii) producing, transmitting, distrib-  
19                   uting, or selling natural gas.”.

20                  (b) TREATMENT OF INCOME FROM LOAD LOSS TRANS-  
21                  ACTIONS, ETC.—Paragraph (12) of section 501(c), as  
22                  amended by subsection (a)(2), is amended by adding after  
23                  subparagraph (G) the following new subparagraph:

24                   “(H)(i) In the case of a mutual or coopera-  
25                   tive electric company described in this para-

1           *graph or an organization described in section*  
2           *1381(a)(2)(C), income received or accrued from a*  
3           *load loss transaction shall be treated as an*  
4           *amount collected from members for the sole pur-*  
5           *pose of meeting losses and expenses.*

6           “(i) *For purposes of clause (i), the term*  
7           *‘load loss transaction’ means any wholesale or*  
8           *retail sale of electric energy (other than to mem-*  
9           *bers) to the extent that the aggregate sales during*  
10           *the recovery period do not exceed the load loss*  
11           *mitigation sales limit for such period.*

12           “(iii) *For purposes of clause (ii), the load*  
13           *loss mitigation sales limit for the recovery period*  
14           *is the sum of the annual load losses for each year*  
15           *of such period.*

16           “(iv) *For purposes of clause (iii), a mutual*  
17           *or cooperative electric company’s annual load*  
18           *loss for each year of the recovery period is the*  
19           *amount (if any) by which—*

20                   “(I) *the megawatt hours of electric en-*  
21                   *ergy sold during such year to members of*  
22                   *such electric company are less than*

23                   “(II) *the megawatt hours of electric en-*  
24                   *ergy sold during the base year to such mem-*  
25                   *bers.*

1           “(v) For purposes of clause (iv)(II), the  
2 term ‘base year’ means—

3           “(I) the calendar year preceding the  
4 start-up year, or

5           “(II) at the election of the electric com-  
6 pany, the second or third calendar years  
7 preceding the start-up year.

8           “(vi) For purposes of this subparagraph, the  
9 recovery period is the 7-year period beginning  
10 with the start-up year.

11           “(vii) For purposes of this subparagraph,  
12 the start-up year is the calendar year which in-  
13 cludes the date of the enactment of this subpara-  
14 graph or, if later, at the election of the mutual  
15 or cooperative electric company—

16           “(I) the first year that such electric  
17 company offers nondiscriminatory open ac-  
18 cess, or

19           “(II) the first year in which at least 10  
20 percent of such electric company’s sales are  
21 not to members of such electric company.

22           “(viii) A company shall not fail to be treat-  
23 ed as a mutual or cooperative company for pur-  
24 poses of this paragraph or as a corporation oper-  
25 ating on a cooperative basis for purposes of sec-

1           tion 1381(a)(2)(C) by reason of the treatment  
2           under clause (i).

3           “(ix) For purposes of subparagraph (A), in  
4           the case of a mutual or cooperative electric com-  
5           pany, income received, or accrued, indirectly  
6           from a member shall be treated as an amount  
7           collected from members for the sole purpose of  
8           meeting losses and expenses.”.

9           (c) *EXCEPTION FROM UNRELATED BUSINESS TAX-*  
10 *ABLE INCOME.*—Subsection (b) of section 512 (relating to  
11 *modifications*) is amended by adding at the end the fol-  
12 *lowing new paragraph:*

13           “(18) *TREATMENT OF MUTUAL OR COOPERATIVE*  
14 *ELECTRIC COMPANIES.*—In the case of a mutual or  
15 *cooperative electric company described in section*  
16 *501(c)(12), there shall be excluded income which is*  
17 *treated as member income under subparagraph (H)*  
18 *thereof.”.*

19           (d) *CROSS REFERENCE.*—Section 1381 is amended by  
20 *adding at the end the following new subsection:*

21           “(c) *CROSS REFERENCE.*—

**“For treatment of income from load loss trans-  
actions of organizations described in subsection  
(a)(2)(C), see section 501(c)(12)(H).”.**

22           (e) *EFFECTIVE DATE.*—The amendments made by this  
23 *section shall apply to taxable years beginning after the date*  
24 *of the enactment of this Act.*

1 **SEC. 210. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**  
2 **MENTS FOR NATURAL GAS.**

3 (a) *IN GENERAL.*—Subsection (b) of section 148 (relat-  
4 *ing to higher yielding investments*) is amended by adding  
5 *at the end the following new paragraph:*

6 “(4) *SAFE HARBOR FOR PREPAID NATURAL*  
7 *GAS.*—

8 “(A) *IN GENERAL.*—The term ‘investment-  
9 *type property*’ does not include a prepayment  
10 *under a qualified natural gas supply contract.*

11 “(B) *QUALIFIED NATURAL GAS SUPPLY*  
12 *CONTRACT.*—For purposes of this paragraph, the  
13 *term ‘qualified natural gas supply contract’*  
14 *means any contract to acquire natural gas for*  
15 *resale by a utility owned by a governmental unit*  
16 *if the amount of gas permitted to be acquired*  
17 *under the contract by the utility during any*  
18 *year does not exceed the sum of—*

19 “(i) *the annual average amount during*  
20 *the testing period of natural gas purchased*  
21 *(other than for resale) by customers of such*  
22 *utility who are located within the service*  
23 *area of such utility, and*

24 “(ii) *the amount of natural gas to be*  
25 *used to transport the prepaid natural gas to*  
26 *the utility during such year.*

1           “(C) *NATURAL GAS USED TO GENERATE*  
2           *ELECTRICITY.—Natural gas used to generate*  
3           *electricity shall be taken into account in deter-*  
4           *mining the average under subparagraph*  
5           *(B)(i)—*

6                   “(i) *only if the electricity is generated*  
7                   *by a utility owned by a governmental unit,*  
8                   *and*

9                   “(ii) *only to the extent that the elec-*  
10                  *tricity is sold (other than for resale) to cus-*  
11                  *tomers of such utility who are located with-*  
12                  *in the service area of such utility.*

13           “(D) *ADJUSTMENTS FOR CHANGES IN CUS-*  
14           *TOMER BASE.—*

15                   “(i) *NEW BUSINESS CUSTOMERS.—If—*

16                   “(I) *after the close of the testing*  
17                   *period and before the date of issuance*  
18                   *of the issue, the utility owned by a gov-*  
19                   *ernmental unit enters into a contract*  
20                   *to supply natural gas (other than for*  
21                   *resale) for a business use at a property*  
22                   *within the service area of such utility,*  
23                   *and*

24                   “(II) *the utility did not supply*  
25                   *natural gas to such property during*

1                   *the testing period or the ratable*  
2                   *amount of natural gas to be supplied*  
3                   *under the contract is significantly*  
4                   *greater than the ratable amount of gas*  
5                   *supplied to such property during the*  
6                   *testing period,*

7                   *then a contract shall not fail to be treated*  
8                   *as a qualified natural gas supply contract*  
9                   *by reason of supplying the additional nat-*  
10                  *ural gas under the contract referred to in*  
11                  *subclause (I).*

12                  “(ii) *LOST CUSTOMERS.—The average*  
13                  *under subparagraph (B)(i) shall not exceed*  
14                  *the annual amount of natural gas reason-*  
15                  *ably expected to be purchased (other than*  
16                  *for resale) by persons who are located with-*  
17                  *in the service area of such utility and who,*  
18                  *as of the date of issuance of the issue, are*  
19                  *customers of such utility.*

20                  “(E) *RULING REQUESTS.—The Secretary*  
21                  *may increase the average under subparagraph*  
22                  *(B)(i) for any period if the utility owned by the*  
23                  *governmental unit establishes to the satisfaction*  
24                  *of the Secretary that, based on objective evidence*  
25                  *of growth in natural gas consumption or popu-*

1            *lation, such average would otherwise be insuffi-*  
2            *cient for such period.*

3            *“(F) ADJUSTMENT FOR NATURAL GAS OTH-*  
4            *ERWISE ON HAND.—*

5            *“(i) IN GENERAL.—The amount other-*  
6            *wise permitted to be acquired under the*  
7            *contract for any period shall be reduced*  
8            *by—*

9            *“(I) the applicable share of nat-*  
10           *ural gas held by the utility on the date*  
11           *of issuance of the issue, and*

12           *“(II) the natural gas (not taken*  
13           *into account under subclause (I))*  
14           *which the utility has a right to acquire*  
15           *during such period (determined as of*  
16           *the date of issuance of the issue).*

17           *“(ii) APPLICABLE SHARE.—For pur-*  
18           *poses of the clause (i), the term ‘applicable*  
19           *share’ means, with respect to any period,*  
20           *the natural gas allocable to such period if*  
21           *the gas were allocated ratably over the pe-*  
22           *riod to which the prepayment relates.*

23           *“(G) INTENTIONAL ACTS.—Subparagraph*  
24           *(A) shall cease to apply to any issue if the util-*  
25           *ity owned by the governmental unit engages in*

1           *any intentional act to render the volume of nat-*  
2           *ural gas acquired by such prepayment to be in*  
3           *excess of the sum of—*

4                   “(i) *the amount of natural gas needed*  
5                   *(other than for resale) by customers of such*  
6                   *utility who are located within the service*  
7                   *area of such utility, and*

8                   “(ii) *the amount of natural gas used to*  
9                   *transport such natural gas to the utility.*

10           “(H) *TESTING PERIOD.—For purposes of*  
11           *this paragraph, the term ‘testing period’ means,*  
12           *with respect to an issue, the most recent 5 cal-*  
13           *endar years ending before the date of issuance of*  
14           *the issue.*

15           “(I) *SERVICE AREA.—For purposes of this*  
16           *paragraph, the service area of a utility owned by*  
17           *a governmental unit shall be comprised of—*

18                   “(i) *any area throughout which such*  
19                   *utility provided at all times during the test-*  
20                   *ing period—*

21                   “(I) *in the case of a natural gas*  
22                   *utility, natural gas transmission or*  
23                   *distribution services, and*

24                   “(II) *in the case of an electric*  
25                   *utility, electricity distribution services,*

1           “(ii) any area within a county contig-  
2           uous to the area described in clause (i) in  
3           which retail customers of such utility are lo-  
4           cated if such area is not also served by an-  
5           other utility providing natural gas or elec-  
6           tricity services, as the case may be, and

7           “(iii) any area recognized as the serv-  
8           ice area of such utility under State or Fed-  
9           eral law.”.

10       (b) *PRIVATE LOAN FINANCING TEST NOT TO APPLY*  
11 *TO PREPAYMENTS FOR NATURAL GAS.*—Paragraph (2) of  
12 section 141(c) (providing exceptions to the private loan fi-  
13 nancing test) is amended by striking “or” at the end of  
14 subparagraph (A), by striking the period at the end of sub-  
15 paragraph (B) and inserting “, or”, and by adding at the  
16 end the following new subparagraph:

17           “(C) is a qualified natural gas supply con-  
18           tract (as defined in section 148(b)(4)).”.

19       (c) *EFFECTIVE DATE.*—The amendment made by this  
20 section shall apply to obligations issued after the date of  
21 the enactment of this Act.

1 **SEC. 211. PREPAYMENT OF PREMIUM LIABILITY FOR COAL**  
2 **INDUSTRY HEALTH BENEFITS.**

3 (a) *IN GENERAL.*—Section 9704 (relating to liability  
4 of assigned operators) is amended by adding at the end the  
5 following new subsection:

6 “(j) *PREPAYMENT OF PREMIUM LIABILITY.*—

7 “(1) *IN GENERAL.*—If—

8 “(A) any assigned operator who is a mem-  
9 ber of a controlled group of corporations (within  
10 the meaning of section 52(a)) makes a payment  
11 meeting the requirements of paragraph (2) to the  
12 Combined Fund, and

13 “(B) the common parent of such group—

14 “(i) is jointly and severally liable for  
15 any premium which would (but for this  
16 subsection) be required to be paid by such  
17 operator, and

18 “(ii) provides security which meets the  
19 requirements of paragraph (3),

20 then no person (other than such common parent) shall  
21 be liable for any premium for which such operator  
22 would otherwise be liable.

23 “(2) *REQUIREMENTS.*—A payment meets the re-  
24 quirements of this paragraph if—

25 “(A) the amount of the payment is not less  
26 than the present value of the total premium li-

1           *ability of the assigned operator for its assignees*  
2           *under this chapter with respect to the Combined*  
3           *Fund (as determined by the operator’s enrolled*  
4           *actuary, as defined in section 7701(a)(35)),*  
5           *using actuarial methods and assumptions each of*  
6           *which is reasonable and which are reasonable in*  
7           *the aggregate, as determined by such enrolled ac-*  
8           *tuary,*

9           “(B) a signed actuarial report is filed with  
10          *the Secretary of Labor by such enrolled actuary*  
11          *containing—*

12                 “(i) the date of the actuarial valuation  
13                 *applicable to the report, and*

14                 “(ii) a statement by the enrolled actu-  
15                 *ary signing the report that to the best of the*  
16                 *actuary’s knowledge the report is complete*  
17                 *and accurate and that in the actuary’s*  
18                 *opinion the actuarial assumptions used are*  
19                 *in the aggregate reasonably related to the*  
20                 *experience of the operator and to reasonable*  
21                 *expectations,*

22           “(C) a description of the security described  
23          *in paragraph (3) is filed with the Secretary of*  
24          *Labor by the common parent, and*

1           “(D) 30 calendar days have elapsed after  
2           the report required by subparagraph (B), and  
3           the description required by subparagraph (C),  
4           are filed with the Secretary of Labor, and the  
5           Secretary of Labor has not notified the assigned  
6           operator in writing that the requirements of this  
7           paragraph have not been satisfied.

8           “(3) SECURITY.—Security meets the require-  
9           ments of this paragraph if—

10           “(A) the security (in the form of a bond, let-  
11           ter of credit, or cash escrow) is provided to the  
12           trustees of the 1992 UMWA Benefit Plan, solely  
13           for the purpose of paying premiums for bene-  
14           ficiaries described in section 9712(b)(2)(B),  
15           equal in amount to one year’s liability of the as-  
16           signed operator under section 9711, determined  
17           by using the average cost of such operator’s li-  
18           ability during its prior 3 calendar years; and

19           “(B) the security will remain in place for  
20           5 years.

21           “(4) USE OF PREPAYMENT.—Any payment to  
22           which this subsection applies (and earnings thereon)  
23           shall be used exclusively to pay premiums which  
24           would (but for this subsection) be required to be paid  
25           by the assigned operator making such payment.”.

1       (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 2 *section shall take effect on the date of the enactment of this*  
 3 *Act.*

## 4                   **TITLE III—PRODUCTION**

### 5   **SEC. 301. OIL AND GAS FROM MARGINAL WELLS.**

6       (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*  
 7 *A of chapter 1 (relating to business credits) is amended by*  
 8 *adding at the end the following:*

#### 9   **“SEC. 45I. CREDIT FOR PRODUCING OIL AND GAS FROM** 10                   **MARGINAL WELLS.**

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

14               “(1) *the credit amount, and*

15               “(2) *the qualified credit oil production and the*  
 16 *qualified natural gas production which is attributable*  
 17 *to the taxpayer.*

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

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

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

22                       “(B) *50 cents per 1,000 cubic feet of quali-*  
 23 *fied natural gas production.*

24               “(2) *REDUCTION AS OIL AND GAS PRICES IN-*  
 25 *CREASE.*—

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

6                     “(i) *the excess (if any) of the applica-*  
7                     *ble reference price over \$15 (\$1.67 for quali-*  
8                     *fied natural gas production), bears to*

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

11           *The applicable reference price for a taxable year*  
12           *is the reference price of the calendar year pre-*  
13           *ceding the calendar year in which the taxable*  
14           *year begins.*

15           “(B) *INFLATION ADJUSTMENT.*—*In the case*  
16           *of any taxable year beginning in a calendar year*  
17           *after 2003, each of the dollar amounts contained*  
18           *in subparagraph (A) shall be increased to an*  
19           *amount equal to such dollar amount multiplied*  
20           *by the inflation adjustment factor for such cal-*  
21           *endar year (determined under section*  
22           *43(b)(3)(B) by substituting ‘2002’ for ‘1990’).*

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

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

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

8           “(c) *QUALIFIED CRUDE OIL AND NATURAL GAS PRO-*  
9           *DUCTION.—For purposes of this section—*

10           “(1) *IN GENERAL.—The terms ‘qualified crude*  
11           *oil production’ and ‘qualified natural gas production’*  
12           *mean domestic crude oil or natural gas which is pro-*  
13           *duced from a qualified marginal well.*

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

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

23           “(B) *PROPORTIONATE REDUCTIONS.—*

24           “(i) *SHORT TAXABLE YEARS.—In the*  
25           *case of a short taxable year, the limitations*

1           *under this paragraph shall be proportion-*  
2           *ately reduced to reflect the ratio which the*  
3           *number of days in such taxable year bears*  
4           *to 365.*

5           “(ii) *WELLS NOT IN PRODUCTION EN-*  
6           *TIRE YEAR.—In the case of a well which is*  
7           *not capable of production during each day*  
8           *of a taxable year, the limitations under this*  
9           *paragraph applicable to the well shall be*  
10          *proportionately reduced to reflect the ratio*  
11          *which the number of days of production*  
12          *bears to the total number of days in the tax-*  
13          *able year.*

14          “(3) *DEFINITIONS.—*

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

18                         “(i) *the production from which during*  
19                         *the taxable year is treated as marginal pro-*  
20                         *duction under section 613A(c)(6), or*

21                         “(ii) *which, during the taxable year—*

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

1                   “(II) produces water at a rate not  
2                   less than 95 percent of total well efflu-  
3                   ent.

4                   “(B) *CRUDE OIL, ETC.*—The terms ‘crude  
5                   oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have  
6                   the meanings given such terms by section  
7                   613A(e).

8                   “(C) *BARREL EQUIVALENT.*—The term ‘bar-  
9                   rel equivalent’ means, with respect to natural  
10                  gas, a conversion ratio of 6,000 cubic feet of nat-  
11                  ural gas to 1 barrel of crude oil.

12                  “(d) *OTHER RULES.*—

13                  “(1) *PRODUCTION ATTRIBUTABLE TO THE TAX-*  
14                  *PAYER.*—In the case of a qualified marginal well in  
15                  which there is more than one owner of operating in-  
16                  terests in the well and the crude oil or natural gas  
17                  production exceeds the limitation under subsection  
18                  (c)(2), qualifying crude oil production or qualifying  
19                  natural gas production attributable to the taxpayer  
20                  shall be determined on the basis of the ratio which  
21                  taxpayer’s revenue interest in the production bears to  
22                  the aggregate of the revenue interests of all operating  
23                  interest owners in the production.

24                  “(2) *OPERATING INTEREST REQUIRED.*—Any  
25                  credit under this section may be claimed only on pro-

1        *duction which is attributable to the holder of an oper-*  
2        *ating interest.*

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

10        (b) *CREDIT TREATED AS BUSINESS CREDIT.—Section*  
11        *38(b) is amended by striking “plus” at the end of para-*  
12        *graph (16), by striking the period at the end of paragraph*  
13        *(17) and inserting “, plus”, and by adding at the end the*  
14        *following:*

15            “(18) *the marginal oil and gas well production*  
16        *credit determined under section 45I(a).”.*

17        (c) *CARRYBACK.—Subsection (a) of section 39 (relat-*  
18        *ing to carryback and carryforward of unused credits gen-*  
19        *erally) is amended by adding at the end the following:*

20            “(3) *10-YEAR CARRYBACK FOR MARGINAL OIL*  
21        *AND GAS WELL PRODUCTION CREDIT.—In the case of*  
22        *the marginal oil and gas well production credit—*

23            “(A) *this section shall be applied separately*  
24        *from the business credit (other than the marginal*  
25        *oil and gas well production credit),*

1           “(B) paragraph (1) shall be applied by sub-  
2           stituting ‘10 taxable years’ for ‘1 taxable years’  
3           in subparagraph (A) thereof, and

4           “(C) paragraph (2) shall be applied—

5           “(i) by substituting ‘31 taxable years’  
6           for ‘21 taxable years’ in subparagraph (A)  
7           thereof, and

8           “(ii) by substituting ‘30 taxable years’  
9           for ‘20 taxable years’ in subparagraph (A)  
10          thereof.”.

11          (d) *COORDINATION WITH SECTION 29.*—Section 29(a)  
12          is amended by striking “There” and inserting “At the elec-  
13          tion of the taxpayer, there”.

14          (e) *CLERICAL AMENDMENT.*—The table of sections for  
15          subpart D of part IV of subchapter A of chapter 1 is amend-  
16          ed by adding at the end the following:

                  “Sec. 45I. Credit for producing oil and gas from marginal wells.”.

17          (f) *EFFECTIVE DATE.*—The amendments made by this  
18          section shall apply to production in taxable years beginning  
19          after December 31, 2003.

1 **SEC. 302. TEMPORARY SUSPENSION OF LIMITATION BASED**  
2 **ON 65 PERCENT OF TAXABLE INCOME AND EX-**  
3 **TENSION OF SUSPENSION OF TAXABLE IN-**  
4 **COME LIMIT WITH RESPECT TO MARGINAL**  
5 **PRODUCTION.**

6 (a) *LIMITATION BASED ON 65 PERCENT OF TAXABLE*  
7 *INCOME.—Subsection (d) of section 613A (relating to limi-*  
8 *tation on percentage depletion in case of oil and gas wells)*  
9 *is amended by adding at the end the following new para-*  
10 *graph:*

11 “(6) *TEMPORARY SUSPENSION OF TAXABLE IN-*  
12 *COME LIMIT.—Paragraph (1) shall not apply to tax-*  
13 *able years beginning after December 31, 2003, and be-*  
14 *fore January 1, 2007, including with respect to*  
15 *amounts carried under the second sentence of para-*  
16 *graph (1) to such taxable years.”.*

17 (b) *EXTENSION OF SUSPENSION OF TAXABLE INCOME*  
18 *LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—Sub-*  
19 *paragraph (H) of section 613A(c)(6) (relating to temporary*  
20 *suspension of taxable income limit with respect to marginal*  
21 *production) is amended by striking “2004” and inserting*  
22 *“2007”.*

23 (c) *EFFECTIVE DATE.—The amendment made by sub-*  
24 *section (a) shall apply to taxable years beginning after De-*  
25 *cember 31, 2003.*

1 **SEC. 303. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

2       (a) *IN GENERAL.*—Section 167 (relating to deprecia-  
3 tion) is amended by redesignating subsection (h) as sub-  
4 section (i) and by inserting after subsection (g) the fol-  
5 lowing new subsection:

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

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

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

18           “(3) *EXCLUSIVE METHOD.*—Except as provided  
19 in this subsection, no depreciation or amortization  
20 deduction shall be allowed with respect to such pay-  
21 ments.

22           “(4) *TREATMENT UPON ABANDONMENT.*—If any  
23 property to which a delay rental payment relates is  
24 retired or abandoned during the 24-month period de-  
25 scribed in paragraph (1), no deduction shall be al-  
26 lowed on account of such retirement or abandonment



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

4           **(b) *EFFECTIVE DATE.***—*The amendment made by this*  
 5           *section shall apply to costs paid or incurred in taxable*  
 6           *years beginning after December 31, 2003.*

7           ***SEC. 305. EXTENSION AND MODIFICATION OF CREDIT FOR***  
 8                               ***PRODUCING FUEL FROM A NONCONVEN-***  
 9                               ***TIONAL SOURCE.***

10           **(a) *IN GENERAL.***—*Section 29 is amended by adding*  
 11           *at the end the following new subsection:*

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

13                       **“(1) *EXTENSION FOR OIL AND CERTAIN GAS.***—*In*  
 14           *the case of a well for producing qualified fuels de-*  
 15           *scribed in subparagraph (A) or (B)(i) of subsection*  
 16           *(c)(1)—*

17                               **“(A) *APPLICATION OF CREDIT FOR NEW***  
 18           ***WELLS.***—*Notwithstanding subsection (f), this*  
 19           *section shall apply with respect to such fuels—*

20                                       **“(i) which are produced from a well**  
 21                                       *drilled after the date of the enactment of*  
 22                                       *this subsection and before January 1, 2007,*  
 23                                       *and*

24                                       **“(ii) which are sold not later than the**  
 25                                       *close of the 4-year period beginning on the*

1           *date that such well is drilled, or, if earlier,*  
2           *January 1, 2010.*

3           “(B) *EXTENSION OF CREDIT FOR OLD*  
4           *WELLS.—Subsection (f)(2) shall be applied by*  
5           *substituting ‘2007’ for ‘2003’ with respect to*  
6           *wells described in subsection (f)(1)(A) with re-*  
7           *spect to such fuels.*

8           “(2) *EXTENSION FOR FACILITIES PRODUCING*  
9           *QUALIFIED FUEL FROM LANDFILL GAS.—*

10           “(A) *IN GENERAL.—In the case of a facility*  
11           *for producing qualified fuel from landfill gas*  
12           *which was placed in service after June 30, 1998,*  
13           *and before January 1, 2007, this section shall*  
14           *apply to fuel produced at such facility during*  
15           *the 5-year period beginning on the later of—*

16                   “(i) *the date such facility was placed*  
17                   *in service, or*

18                   “(ii) *the date of the enactment of this*  
19                   *subsection.*

20           “(B) *REDUCTION OF CREDIT FOR CERTAIN*  
21           *LANDFILL FACILITIES.—In the case of a facility*  
22           *to which paragraph (1) applies and which is lo-*  
23           *located at a landfill which is required pursuant to*  
24           *section 60.751(b)(2) or section 60.33c of title 40,*  
25           *Code of Federal Regulations (as in effect on*

1       *April 3, 2003) to install and operate a collection*  
2       *and control system which captures gas generated*  
3       *within the landfill, subsection (a)(1) shall be ap-*  
4       *plied to gas so captured by substituting ‘\$2’ for*  
5       *‘\$3’ for the taxable year during which such sys-*  
6       *tem is required to be installed and operated.*

7       “(3) *SPECIAL RULES.—In determining the*  
8       *amount of credit allowable under this section solely*  
9       *by reason of this subsection—*

10               “(A) *DAILY LIMIT.—The amount of quali-*  
11               *fied fuels sold during any taxable year which*  
12               *may be taken into account by reason of this sub-*  
13               *section with respect to any project shall not ex-*  
14               *ceed an average barrel-of-oil equivalent of*  
15               *200,000 cubic feet of natural gas per day. Days*  
16               *before the date the project is placed in service*  
17               *shall not be taken into account in determining*  
18               *such average.*

19               “(B) *EXTENSION PERIOD TO COMMENCE*  
20               *WITH UNADJUSTED CREDIT AMOUNT.—In the*  
21               *case of fuels sold during 2003, the dollar amount*  
22               *applicable under subsection (a)(1) shall be \$3*  
23               *(without regard to subsection (b)(2)). In the case*  
24               *of fuels sold after 2003, subparagraph (B) of sub-*

1           *section (d)(2) shall be applied by substituting*  
2           *‘2003’ for ‘1979’.*

3           ***(b) TREATMENT AS BUSINESS CREDIT.—***

4           ***(1) CREDIT MOVED TO SUBPART RELATING TO***  
5           ***BUSINESS RELATED CREDITS.—****The Internal Revenue*  
6           *Code of 1986 is amended by redesignating section 29*  
7           *as section 45J and by moving section 45J (as so re-*  
8           *designated) from subpart B of part IV of subchapter*  
9           *A of chapter 1 to the end of subpart D of part IV of*  
10           *subchapter A of chapter 1.*

11           ***(2) CREDIT TREATED AS BUSINESS CREDIT.—***  
12           *Section 38(b) is amended by striking “plus” at the*  
13           *end of paragraph (17), by striking the period at the*  
14           *end of paragraph (18) and inserting “, plus”, and by*  
15           *adding at the end the following:*

16           *“(19) the nonconventional source production*  
17           *credit determined under section 45J(a).”.*

18           ***(3) CONFORMING AMENDMENTS.—***

19           ***(A) Section 30(b)(2)(A), as redesignated by***  
20           ***section 110(a), is amended by striking “sections***  
21           ***27 and 29” and inserting “section 27”.***

22           ***(B) Section 30B(d), as added by section***  
23           ***111, is amended by striking “, 29,”.***

24           ***(C) Section 39(d) is amended by adding at***  
25           ***the end the following new paragraph:***

1           “(13) *NO CARRYBACK FOR NONCONVENTIONAL*  
2           *SOURCE PRODUCTION CREDIT.*—No portion of the un-  
3           used business credit for any taxable year which is at-  
4           tributable to the credit under section 45J may be car-  
5           ried back to a taxable year ending before April 1,  
6           2003.”.

7           (D) Sections 43(b)(2), 45I(b)(2)(C) (as  
8           added by section 301), and 613A(c)(6)(C) are  
9           each amended by striking “section 29(d)(2)(C)”  
10          and inserting “section 45J(d)(2)(C)”.

11          (E) Paragraph (9) of section 45(c), as  
12          added by section 102(c), is amended by striking  
13          “section 29” and inserting “section 45J” and by  
14          striking “SECTION 29” in the heading of such  
15          paragraph and inserting “SECTION 45J”.

16          (F) Section 45I(d)(3), as added by section  
17          301, is amended by striking “section 29” each  
18          place it appears and inserting “section 45J”.

19          (G) Section 45J(a), as amended by section  
20          301(d) and redesignated by paragraph (1), is  
21          amended by striking “At the election of the tax-  
22          payer, there shall be allowed as a credit against  
23          the tax imposed by this chapter for the taxable  
24          year” and inserting “For purposes of section 38,  
25          if the taxpayer elects to have this section apply,

1           *the nonconventional source production credit de-*  
2           *termined under this section for the taxable year*  
3           *is”.*

4           *(H) Section 45J(b), as so redesignated, is*  
5           *amended by striking paragraph (6).*

6           *(I) Section 53(d)(1)(B)(iii) is amended by*  
7           *striking “under section 29” and all that follows*  
8           *through “or not allowed”.*

9           *(J) Section 55(c)(2) is amended by striking*  
10           *“29(b)(6),”.*

11           *(K) Subsection (a) of section 772 is amend-*  
12           *ed by inserting “and” at the end of paragraph*  
13           *(9), by striking paragraph (10), and by redesign-*  
14           *ating paragraph (11) as paragraph (10).*

15           *(L) Paragraph (5) of section 772(d) is*  
16           *amended by striking “the foreign tax credit, and*  
17           *the credit allowable under section 29” and in-*  
18           *serting “and the foreign tax credit”.*

19           *(M) The table of sections for subpart B of*  
20           *part IV of subchapter A of chapter 1 is amended*  
21           *by striking the item relating to section 29.*

22           *(N) The table of sections for subpart D of*  
23           *part IV of subchapter A of chapter 1 is amended*  
24           *by inserting after the item relating to section 45I*  
25           *the following new item:*

“Sec. 45J. Credit for producing fuel from a nonconventional source.”.

1 (c) *EFFECTIVE DATES.*—

2 (1) *IN GENERAL.*—*The amendment made by sub-*  
 3 *section (a) shall apply to fuel sold after March 31,*  
 4 *2003, in taxable years ending after such date.*

5 (2) *TREATMENT AS BUSINESS CREDIT.*—*The*  
 6 *amendments made by subsection (b) shall apply to*  
 7 *taxable years ending after March 31, 2003.*

8 ***SEC. 306. BUSINESS RELATED ENERGY CREDITS ALLOWED***  
 9 ***AGAINST REGULAR AND MINIMUM TAX.***

10 (a) *IN GENERAL.*—*Subsection (c) of section 38 (relat-*  
 11 *ing to limitation based on amount of tax) is amended by*  
 12 *redesignating paragraph (4) as paragraph (5) and by in-*  
 13 *serting after paragraph (3) the following new paragraph:*

14 “(4) *SPECIAL RULES FOR SPECIFIED ENERGY*  
 15 *CREDITS.*—

16 “(A) *IN GENERAL.*—*In the case of specified*  
 17 *energy credits—*

18 “(i) *this section and section 39 shall be*  
 19 *applied separately with respect to such*  
 20 *credits, and*

21 “(ii) *in applying paragraph (1) to*  
 22 *such credits—*

23 “(I) *the tentative minimum tax*  
 24 *shall be treated as being zero, and*

1                   “(II) the limitation under para-  
2                   graph (1) (as modified by subclause  
3                   (I)) shall be reduced by the credit al-  
4                   lowed under subsection (a) for the tax-  
5                   able year (other than the specified en-  
6                   ergy credits).

7                   “(B) SPECIFIED ENERGY CREDITS.—For  
8                   purposes of this subsection, the term ‘specified  
9                   energy credits’ means the credits determined  
10                  under sections 45G, 45H, and 45I.

11                  “(C) SPECIAL RULE FOR QUALIFIED WIND  
12                  FACILITIES.—For purposes of this subsection, the  
13                  term ‘specified energy credits’ shall include the  
14                  credit determined under section 45 to the extent  
15                  that such credit is attributable to electricity pro-  
16                  duced—

17                         “(i) at a facility using wind to  
18                         produce electricity which is originally  
19                         placed in service after the date of the enact-  
20                         ment of this paragraph, and

21                         “(ii) during the 4-year period begin-  
22                         ning on the date that such facility was  
23                         originally placed in service.”.

24                  (b) CONFORMING AMENDMENTS.—Paragraphs  
25                  (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each

1 amended by inserting “or the specified energy credits” after  
2 “employee credit”.

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

6 **SEC. 307. TEMPORARY REPEAL OF ALTERNATIVE MINIMUM**  
7 **TAX PREFERENCE FOR INTANGIBLE DRILL-**  
8 **ING COSTS.**

9 (a) *IN GENERAL.*—Clause (ii) of section 57(a)(2)(E)  
10 is amended by adding at the end the following new sentence:  
11 “The preceding sentence shall not apply to taxable years  
12 beginning after December 31, 2003, and before January 1,  
13 2006.”.

14 (b) *EFFECTIVE DATE.*—The amendment made by this  
15 section shall apply to taxable years beginning after Decem-  
16 ber 31, 2003.

17 **SEC. 308. ALLOWANCE OF ENHANCED RECOVERY CREDIT**  
18 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

19 (a) *IN GENERAL.*—Subparagraph (B) of section  
20 38(c)(4), as amended by section 306, is amended by adding  
21 at the end the following new sentence: “For taxable years  
22 beginning after December 31, 2003, and before January 1,  
23 2006, such term includes the credit determined under sec-  
24 tion 43.”.

1       (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 2 *section shall apply to taxable years beginning after Decem-*  
 3 *ber 31, 2003.*

4                   ***TITLE IV—CORPORATE***  
 5                   ***EXPATRIATION***

6 ***SEC. 401. TAX TREATMENT OF CORPORATE EXPATRIATION.***

7       (a) *IN GENERAL.*—*Subchapter C of chapter 80 (relat-*  
 8 *ing to provisions affecting more than one subtitle) is*  
 9 *amended by adding at the end the following new section:*

10 ***“SEC. 7874. TAX TREATMENT OF CORPORATE EXPATRIA-***  
 11 ***TION.***

12       “*(a) INVERTED CORPORATIONS TREATED AS DOMES-*  
 13 *TIC CORPORATIONS.*—

14               “*(1) IN GENERAL.*—*If a foreign incorporated en-*  
 15 *tity is treated as an inverted domestic corporation,*  
 16 *then, notwithstanding section 7701(a)(4), such entity*  
 17 *shall be treated for purposes of this title as a domestic*  
 18 *corporation.*

19               “*(2) INVERTED DOMESTIC CORPORATION.*—*For*  
 20 *purposes of this section, a foreign incorporated entity*  
 21 *shall be treated as an inverted domestic corporation*  
 22 *if, pursuant to a plan (or a series of related trans-*  
 23 *actions)—*

24                   “*(A) the entity completes after March 4,*  
 25               *2003, the direct or indirect acquisition of sub-*

1           *stantially all of the properties held directly or*  
2           *indirectly by a domestic corporation or substan-*  
3           *tially all of the properties constituting a trade or*  
4           *business of a domestic partnership,*

5           “(B) *after the acquisition at least 80 per-*  
6           *cent of the stock (by vote or value) of the entity*  
7           *is held—*

8                   “(i) *in the case of an acquisition with*  
9                   *respect to a domestic corporation, by former*  
10                  *shareholders of the domestic corporation by*  
11                  *reason of holding stock in the domestic cor-*  
12                  *poration, or*

13                   “(ii) *in the case of an acquisition with*  
14                   *respect to a domestic partnership, by former*  
15                  *partners of the domestic partnership by rea-*  
16                  *son of holding a capital or profits interest*  
17                  *in the domestic partnership, and*

18           “(C) *the expanded affiliated group which*  
19           *after the acquisition includes the entity does not*  
20           *have substantial business activities in the foreign*  
21           *country in which or under the law of which the*  
22           *entity is created or organized when compared to*  
23           *the total business activities of such expanded af-*  
24           *filiated group.*

1           “(3) *TERMINATION.*—*This subsection shall not*  
2           *apply to any acquisition completed after December*  
3           *31, 2004.*

4           “(b) *DEFINITIONS AND SPECIAL RULES.*—*For pur-*  
5           *poses of this section—*

6           “(1) *FOREIGN INCORPORATED ENTITY.*—*The*  
7           *term ‘foreign incorporated entity’ means any entity*  
8           *which is, or but for subsection (a) would be, treated*  
9           *as a foreign corporation for purposes of this title.*

10           “(2) *EXPANDED AFFILIATED GROUP.*—*The term*  
11           *‘expanded affiliated group’ means an affiliated group*  
12           *as defined in section 1504(a) but without regard to*  
13           *paragraphs (2), (3), and (4) of section 1504(b), except*  
14           *that section 1504(a) shall be applied by substituting*  
15           *‘more than 50 percent’ for ‘at least 80 percent’ each*  
16           *place it appears.*

17           “(3) *CERTAIN STOCK DISREGARDED.*—*There*  
18           *shall not be taken into account in determining owner-*  
19           *ship under subsection (a)(3)(B)—*

20                   “(A) *stock held by members of the expanded*  
21                   *affiliated group which includes the foreign incor-*  
22                   *porated entity, or*

23                   “(B) *stock of such foreign incorporated enti-*  
24                   *ty which is sold in a public offering related to*  
25                   *the acquisition described in subsection (a)(3)(A).*

1           “(4) *PLAN DEEMED IN CERTAIN CASES.*—If a  
2           *foreign incorporated entity acquires directly or indi-*  
3           *rectly substantially all of the properties of a domestic*  
4           *corporation or partnership during the 4-year period*  
5           *beginning on the date which is 2 years before the*  
6           *ownership requirements of subsection (a)(3)(B) are*  
7           *met, such actions shall be treated as pursuant to a*  
8           *plan.*

9           “(5) *CERTAIN TRANSFERS DISREGARDED.*—The  
10          *transfer of properties or liabilities (including by con-*  
11          *tribution or distribution) shall be disregarded if such*  
12          *transfers are part of a plan a principal purpose of*  
13          *which is to avoid the purposes of this section.*

14          “(6) *SPECIAL RULE FOR RELATED PARTNER-*  
15          *SHIPS.*—For purposes of applying subsection  
16          *(a)(3)(B) to the acquisition of a domestic partnership,*  
17          *except as provided in regulations, all partnerships*  
18          *which are under common control (within the meaning*  
19          *of section 482) shall be treated as 1 partnership.*

20          “(7) *REGULATIONS.*—The Secretary shall pre-  
21          *scribe such regulations as may be appropriate to de-*  
22          *termine whether a corporation is an inverted domestic*  
23          *corporation, including regulations—*

1           “(A) to treat warrants, options, contracts to  
2           acquire stock, convertible debt interests, and  
3           other similar interests as stock, and

4           “(B) to treat stock as not stock.

5           “(c) *SPECIAL RULE FOR TREATIES.*—Nothing in sec-  
6           tion 894 or 7852(d) or in any other provision of law shall  
7           be construed as permitting an exemption, by reason of any  
8           treaty obligation of the United States heretofore or hereafter  
9           entered into, from the provisions of this section.

10          “(d) *REGULATIONS.*—The Secretary shall provide such  
11          regulations as are necessary to carry out this section, in-  
12          cluding regulations providing for such adjustments to the  
13          application of this section as are necessary to prevent the  
14          avoidance of the purposes of this section, including the  
15          avoidance of such purposes through—

16                 “(1) the use of related persons, pass-through or  
17                 other noncorporate entities, or other intermediaries,  
18                 or

19                 “(2) transactions designed to have persons cease  
20                 to be (or not become) members of expanded affiliated  
21                 groups or related persons.”.

22          (b) *CONFORMING AMENDMENT.*—The table of sections  
23          for subchapter C of chapter 80 is amended by adding at  
24          the end the following new item:

                  “Sec. 7874. Tax treatment of corporate expatriation.”.

1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to taxable years ending after March 4,*  
3 *2003.*

4       ***SEC. 402. EXPRESSING THE SENSE OF THE CONGRESS THAT***  
5                               ***TAX REFORM IS NEEDED TO ADDRESS THE***  
6                               ***ISSUE OF CORPORATE EXPATRIATION.***

7       (a) *FINDINGS.*—*The Congress finds that—*

8               (1) *the tax laws of the United States are overly*  
9 *complex;*

10              (2) *the tax laws of the United States are among*  
11 *the most burdensome and uncompetitive in the world;*

12              (3) *the tax laws of the United States make it dif-*  
13 *ficult for domestically-owned United States companies*  
14 *to compete abroad and in the United States;*

15              (4) *a domestically-owned corporation is dis-*  
16 *advantaged compared to a United States subsidiary*  
17 *of a foreign-owned corporation; and*

18              (5) *international competitiveness is forcing*  
19 *many United States corporations to make a choice*  
20 *they do not want to make—go out of business, sell the*  
21 *business to a foreign competitor, or become a sub-*  
22 *sidary of a foreign corporation (i.e., engage in an in-*  
23 *version transaction).*

24       (b) *SENSE OF CONGRESS.*—*It is the sense of Congress*  
25 *that passage of legislation to fix the underlying problems*

1 *with our tax laws is essential and should occur as soon as*  
2 *possible, so United States corporations will not face the cur-*  
3 *rent pressures to engage in inversion transactions.*

**Union Calendar No. 41**

108TH CONGRESS  
1ST SESSION

**H. R. 1531**

**[Report No. 108-67]**

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**A BILL**

To amend the Internal Revenue Code of 1986 to enhance energy conservation and to provide for reliability and diversity in the energy supply for the American people, and for other purposes.

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APRIL 9, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed