

# Union Calendar No. 25

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1541

[Report No. 109-45]

To amend the Internal Revenue Code of 1986 to enhance energy infrastructure properties in the United States and to encourage the use of certain energy technologies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2005

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

APRIL 18, 2005

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 12, 2005]

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## A BILL

To amend the Internal Revenue Code of 1986 to enhance energy infrastructure properties in the United States and to encourage the use of certain energy technologies, 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; ETC.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “En-*  
 3 *hanced Energy Infrastructure and Technology Tax Act of*  
 4 *2005”.*

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

11 (c) *TABLE OF CONTENTS.*—*The table of contents for*  
 12 *this Act is as follows:*

*Sec. 1. Short title; etc.*

**TITLE I—ENERGY INFRASTRUCTURE TAX INCENTIVES**

*Sec. 101. Natural gas gathering lines treated as 7-year property.*

*Sec. 102. Natural gas distribution lines treated as 15-year property.*

*Sec. 103. Electric transmission property treated as 15-year property.*

*Sec. 104. Expansion of amortization for certain atmospheric pollution control fa-*  
*ilities in connection with plants first placed in service after*  
*1975.*

*Sec. 105. Modification of credit for producing fuel from a nonconventional source.*

*Sec. 106. Modifications to special rules for nuclear decommissioning costs.*

*Sec. 107. Arbitrage rules not to apply to prepayments for natural gas.*

*Sec. 108. Determination of small refiner exception to oil depletion deduction.*

**TITLE II—MISCELLANEOUS ENERGY TAX INCENTIVES**

*Sec. 201. Credit for residential energy efficient property.*

*Sec. 202. Credit for business installation of qualified fuel cells.*

*Sec. 203. Reduced motor fuel excise tax on certain mixtures of diesel fuel.*

*Sec. 204. Amortization of delay rental payments.*

*Sec. 205. Amortization of geological and geophysical expenditures.*

*Sec. 206. Advanced lean burn technology motor vehicle credit.*

*Sec. 207. Credit for energy efficiency improvements to existing homes.*

**TITLE III—ALTERNATIVE MINIMUM TAX RELIEF**

*Sec. 301. New nonrefundable personal credits allowed against regular and min-*  
*imum taxes.*

*Sec. 302. Certain business energy credits allowed against regular and minimum*  
*taxes.*

1 **TITLE I—ENERGY INFRASTRUC-**  
2 **TURE TAX INCENTIVES**

3 **SEC. 101. NATURAL GAS GATHERING LINES TREATED AS 7-**  
4 **YEAR PROPERTY.**

5 (a) *IN GENERAL.*—Subparagraph (C) of section  
6 168(e)(3) (relating to classification of certain property) is  
7 amended by striking “and” at the end of clause (iii), by  
8 redesignating clause (iv) as clause (v), and by inserting  
9 after clause (iii) the following new clause:

10 “(iv) any natural gas gathering line,  
11 and”.

12 (b) *NATURAL GAS GATHERING LINE.*—Subsection (i)  
13 of section 168 is amended by inserting after paragraph (16)  
14 the following new paragraph:

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

17 “(A) the pipe, equipment, and appur-  
18 tenances determined to be a gathering line by the  
19 Federal Energy Regulatory Commission, and

20 “(B) the pipe, equipment, and appur-  
21 tenances used to deliver natural gas from the  
22 wellhead or a commonpoint to the point at which  
23 such gas first reaches—

24 “(i) a gas processing plant,



1 *striking the period at the end of clause (vi) and inserting*  
 2 *“, and”, and by adding at the end the following new clause:*

3 *“(vii) any natural gas distribution*  
 4 *line.”.*

5 *(b) ALTERNATIVE SYSTEM.—The table contained in*  
 6 *section 168(g)(3)(B) is amended by inserting after the item*  
 7 *relating to subparagraph (E)(vi) the following:*

*“(E) (vii) ..... 35”.*

8 *(c) EFFECTIVE DATE.—The amendments made by this*  
 9 *section shall apply to property placed in service after April*  
 10 *11, 2005.*

11 **SEC. 103. ELECTRIC TRANSMISSION PROPERTY TREATED**  
 12 **AS 15-YEAR PROPERTY.**

13 *(a) IN GENERAL.—Subparagraph (E) of section*  
 14 *168(e)(3) (relating to classification of certain property), as*  
 15 *amended by section 102 of this Act, is amended by striking*  
 16 *“and” at the end of clause (vi), by striking the period at*  
 17 *the end of clause (vii) and inserting “, and”, and by adding*  
 18 *at the end the following new clause:*

19 *“(viii) any section 1245 property (as*  
 20 *defined in section 1245(a)(3)) used in the*  
 21 *transmission at 69 or more kilovolts of elec-*  
 22 *tricity for sale and the original use of which*  
 23 *commences with the taxpayer after April*  
 24 *11, 2005.”.*

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

“*(E) (viii)* ..... 30”.

4       (c) *EFFECTIVE DATE.*—The amendments made by this  
 5 section shall apply to property placed in service after April  
 6 11, 2005.

7 **SEC. 104. EXPANSION OF AMORTIZATION FOR CERTAIN AT-**  
 8 **MOSPHERIC POLLUTION CONTROL FACILI-**  
 9 **TIES IN CONNECTION WITH PLANTS FIRST**  
 10 **PLACED IN SERVICE AFTER 1975.**

11       (a) *ELIGIBILITY OF POST-1975 POLLUTION CONTROL*  
 12 *FACILITIES.*—Subsection (d) of section 169 (relating to  
 13 definitions) is amended by adding at the end the following:

14               “(5) *SPECIAL RULE RELATING TO CERTAIN AT-*  
 15 *MOSPHERIC POLLUTION CONTROL FACILITIES.*—In the  
 16 case of any atmospheric pollution control facility  
 17 which is placed in service after April 11, 2005, and  
 18 used in connection with an electric generation plant  
 19 or other property which is primarily coal fired, para-  
 20 graph (1) shall be applied without regard to the  
 21 phrase ‘in operation before January 1, 1976’.”.

22       (b) *TREATMENT AS NEW IDENTIFIABLE TREATMENT*  
 23 *FACILITY.*—Subparagraph (B) of section 169(d)(4) is  
 24 amended to read as follows:

1                   “(B) *CERTAIN FACILITIES PLACED IN OPER-*  
2                   *ATION AFTER APRIL 11, 2005.—In the case of any*  
3                   *facility described in paragraph (1) solely by rea-*  
4                   *son of paragraph (5), subparagraph (A) shall be*  
5                   *applied by substituting ‘April 11, 2005’ for ‘De-*  
6                   *cember 31, 1968’ each place it appears therein.”.*

7           (c) *TECHNICAL AMENDMENT.—Section 169(d)(3) is*  
8           *amended by striking “Health, Education, and Welfare” and*  
9           *inserting “Health and Human Services”.*

10          (d) *EFFECTIVE DATE.—The amendments made by this*  
11          *section shall apply to facilities placed in service after April*  
12          *11, 2005.*

13   **SEC. 105. MODIFICATION OF CREDIT FOR PRODUCING FUEL**  
14                   **FROM A NONCONVENTIONAL SOURCE.**

15          (a) *TREATMENT AS BUSINESS CREDIT.—*

16                  (1) *CREDIT MOVED TO SUBPART RELATING TO*  
17                  *BUSINESS RELATED CREDITS.—The Internal Revenue*  
18                  *Code of 1986 is amended by redesignating section 29*  
19                  *as section 45J and by moving section 45J (as so re-*  
20                  *designated) from subpart B of part IV of subchapter*  
21                  *A of chapter 1 to the end of subpart D of part IV of*  
22                  *subchapter A of chapter 1.*

23                  (2) *CREDIT TREATED AS BUSINESS CREDIT.—*  
24                  *Section 38(b) is amended by striking “plus” at the*  
25                  *end of paragraph (18), by striking the period at the*

1 *end of paragraph (19) and inserting “, plus”, and by*  
2 *adding at the end the following:*

3 *“(20) the nonconventional source production*  
4 *credit determined under section 45J(a).”.*

5 *(3) CONFORMING AMENDMENTS.—*

6 *(A) Section 30(b)(3)(A) is amended by*  
7 *striking “sections 27 and 29” and inserting “sec-*  
8 *tion 27”.*

9 *(B) Sections 43(b)(2), 45I(b)(2)(C)(i), and*  
10 *613A(c)(6)(C) are each amended by striking*  
11 *“section 29(d)(2)(C)” and inserting “section*  
12 *45J(d)(2)(C)”.*

13 *(C) Section 45(e)(9) is amended—*

14 *(i) by striking “section 29” and insert-*  
15 *ing “section 45J”, and*

16 *(ii) by inserting “(or under section 29,*  
17 *as in effect on the day before the date of en-*  
18 *actment of the Enhanced Energy Infrastruc-*  
19 *ture and Technology Tax Act of 2005, for*  
20 *any prior taxable year)” before the period*  
21 *at the end thereof.*

22 *(D) Section 45I is amended—*

23 *(i) in subsection (c)(2)(A) by striking*  
24 *“section 29(d)(5)” and inserting “section*  
25 *45J(d)(5))”, and*

1                   (ii) in subsection (d)(3) by striking  
2                   “section 29” both places it appears and in-  
3                   serting “section 45J”.

4                   (E) Section 45J(a), as redesignated by  
5                   paragraph (1), is amended by striking “There  
6                   shall be allowed as a credit against the tax im-  
7                   posed by this chapter for the taxable year” and  
8                   inserting “For purposes of section 38, if the tax-  
9                   payer elects to have this section apply, the non-  
10                  conventional source production credit determined  
11                  under this section for the taxable year is”.

12                  (F) Section 45J(b), as so redesignated, is  
13                  amended by striking paragraph (6).

14                  (G) Section 53(d)(1)(B)(iii) is amended by  
15                  striking “under section 29” and all that follows  
16                  through “or not allowed”.

17                  (H) Section 55(c)(3) is amended by striking  
18                  “29(b)(6),”.

19                  (I) Subsection (a) of section 772 is amended  
20                  by inserting “and” at the end of paragraph (9),  
21                  by striking paragraph (10), and by redesign-  
22                  ating paragraph (11) as paragraph (10).

23                  (J) Paragraph (5) of section 772(d) is  
24                  amended by striking “the foreign tax credit, and

1           *the credit allowable under section 29” and in-*  
 2           *serting “and the foreign tax credit”.*

3                   *(K) The table of sections for subpart B of*  
 4           *part IV of subchapter A of chapter 1 is amended*  
 5           *by striking the item relating to section 29.*

6                   *(L) The table of sections for subpart D of*  
 7           *part IV of subchapter A of chapter 1 is amended*  
 8           *by inserting after the item relating to section 45I*  
 9           *the following new item:*

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

10           *(b) AMENDMENTS CONFORMING TO THE REPEAL OF*  
 11           *THE NATURAL GAS POLICY ACT OF 1978.—*

12                   *(1) IN GENERAL.—Section 29(c)(2)(A) (before re-*  
 13           *designation under subsection (a)) is amended—*

14                           *(A) by inserting “(as in effect before the re-*  
 15                           *peal of such section)” after “1978”, and*

16                           *(B) by striking subsection (e) and redesign-*  
 17                           *ating subsections (f) and (g) as subsections (e)*  
 18                           *and (f), respectively.*

19                   *(2) CONFORMING AMENDMENTS.—Section*  
 20           *29(g)(1)(before redesignation under subsection (a) and*  
 21           *paragraph (1) of this subsection) is amended—*

22                           *(A) in subparagraph (A) by striking “sub-*  
 23                           *section (f)(1)(B)” and inserting “subsection*  
 24                           *(e)(1)(B)”, and*

1           (B) in subparagraph (B) by striking “sub-  
2           section (f)” and inserting “subsection (e)”.

3           (c) *EFFECTIVE DATES.*—

4           (1) *IN GENERAL.*—*Except as provided in para-*  
5           *graph (2), the amendments made by this section shall*  
6           *apply to credits determined under the Internal Rev-*  
7           *enue Code of 1986 for taxable years ending after De-*  
8           *cember 31, 2005.*

9           (2) *SUBSECTION (b).*—*The amendments made by*  
10          *subsection (b) shall take effect on the date of the en-*  
11          *actment of this Act.*

12   **SEC. 106. MODIFICATIONS TO SPECIAL RULES FOR NU-**  
13                           **CLEAR DECOMMISSIONING COSTS.**

14          (a) *REPEAL OF LIMITATION ON DEPOSITS INTO FUND*  
15          *BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER*  
16          *FUNDING PERIOD.*—*Subsection (b) of section 468A (relat-*  
17          *ing to special rules for nuclear decommissioning costs) is*  
18          *amended to read as follows:*

19               “(b) *LIMITATION ON AMOUNTS PAID INTO FUND.*—*The*  
20          *amount which a taxpayer may pay into the Fund for any*  
21          *taxable year shall not exceed the ruling amount applicable*  
22          *to such taxable year.”.*

23          (b) *TREATMENT OF CERTAIN DECOMMISSIONING*  
24          *COSTS.*—

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

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

6           “(1) *IN GENERAL.*—Notwithstanding subsection  
7           (b), any taxpayer maintaining a Fund to which this  
8           section applies with respect to a nuclear power plant  
9           may transfer into such Fund not more than an  
10          amount equal to the present value of the portion of  
11          the total nuclear decommissioning costs with respect  
12          to such nuclear power plant previously excluded for  
13          such nuclear power plant under subsection (d)(2)(A)  
14          as in effect immediately before the date of the enact-  
15          ment of the Enhanced Energy Infrastructure and  
16          Technology Tax Act of 2005.

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 to the taxpayer (or a prede-*  
8           *cessor) or a corresponding amount was not in-*  
9           *cluded in gross income of the taxpayer (or a*  
10          *predecessor). For purposes of the preceding sen-*  
11          *tence, a ratable portion of each transfer shall be*  
12          *treated as being from previously deducted or ex-*  
13          *cluded amounts to the extent thereof.*

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

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

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

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

25          “(D) *SPECIAL RULES.—*

1                   “(i) *GAIN OR LOSS NOT RECOGNIZED*  
2                   *ON TRANSFERS TO FUND.—No gain or loss*  
3                   *shall be recognized on any transfer de-*  
4                   *scribed in paragraph (1).*

5                   “(ii) *TRANSFERS OF APPRECIATED*  
6                   *PROPERTY TO FUND.—If appreciated prop-*  
7                   *erty is transferred in a transfer described in*  
8                   *paragraph (1), the amount of the deduction*  
9                   *shall not exceed the adjusted basis of such*  
10                   *property.*

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

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

20                   “(2) *NEW RULING AMOUNT TO TAKE INTO AC-*  
21                   *COUNT TOTAL COSTS.—Subparagraph (A) of section*  
22                   *468A(d)(2) (defining ruling amount) is amended to*  
23                   *read as follows:*

24                   “(A) *fund the total nuclear decommis-*  
25                   *sioning costs with respect to such power plant*

1           *over the estimated useful life of such power plant,*  
 2           *and”.*

3           (c) *TECHNICAL AMENDMENTS.—Section 468A(e)(2)*  
 4 *(relating to taxation of Fund) is amended—*

5           (1) *by striking “rate set forth in subparagraph*  
 6 *(B)” in subparagraph (A) and inserting “rate of 20*  
 7 *percent”,*

8           (2) *by striking subparagraph (B), and*

9           (3) *by redesignating subparagraphs (C) and (D)*  
 10 *as subparagraphs (B) and (C), respectively.*

11          (d) *EFFECTIVE DATE.—The amendments made by this*  
 12 *section shall apply to taxable years beginning after Decem-*  
 13 *ber 31, 2005.*

14 **SEC. 107. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**  
 15 **MENTS FOR NATURAL GAS.**

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

19           “(4) *SAFE HARBOR FOR PREPAID NATURAL*  
 20 *GAS.—*

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

24           “(B) *QUALIFIED NATURAL GAS SUPPLY*  
 25 *CONTRACT.—For purposes of this paragraph, the*

1           *term ‘qualified natural gas supply contract’*  
2           *means any contract to acquire natural gas for*  
3           *resale by a utility owned by a governmental unit*  
4           *if the amount of gas permitted to be acquired*  
5           *under the contract by the utility during any*  
6           *year does not exceed the sum of—*

7                     *“(i) the annual average amount during*  
8                     *the testing period of natural gas purchased*  
9                     *(other than for resale) by customers of such*  
10                    *utility who are located within the service*  
11                    *area of such utility, and*

12                    *“(ii) the amount of natural gas to be*  
13                    *used to transport the prepaid natural gas to*  
14                    *the utility during such year.*

15                    *“(C) NATURAL GAS USED TO GENERATE*  
16                    *ELECTRICITY.—Natural gas used to generate*  
17                    *electricity shall be taken into account in deter-*  
18                    *mining the average under subparagraph*  
19                    *(B)(i)—*

20                    *“(i) only if the electricity is generated*  
21                    *by a utility owned by a governmental unit,*  
22                    *and*

23                    *“(ii) only to the extent that the elec-*  
24                    *tricity is sold (other than for resale) to cus-*

1            *tomers of such utility who are located with-*  
2            *in the service area of such utility.*

3            *“(D) ADJUSTMENTS FOR CHANGES IN CUS-*  
4            *TOMER BASE.—*

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

6            *“(I) after the close of the testing*  
7            *period and before the date of issuance*  
8            *of the issue, the utility owned by a gov-*  
9            *ernmental unit enters into a contract*  
10           *to supply natural gas (other than for*  
11           *resale) for a business use at a property*  
12           *within the service area of such utility,*  
13           *and*

14           *“(II) the utility did not supply*  
15           *natural gas to such property during*  
16           *the testing period or the ratable*  
17           *amount of natural gas to be supplied*  
18           *under the contract is significantly*  
19           *greater than the ratable amount of gas*  
20           *supplied to such property during the*  
21           *testing period,*

22           *then a contract shall not fail to be treated*  
23           *as a qualified natural gas supply contract*  
24           *by reason of supplying the additional nat-*

1            *ural gas under the contract referred to in*  
2            *subclause (I).*

3            *“(ii) LOST CUSTOMERS.—The average*  
4            *under subparagraph (B)(i) shall not exceed*  
5            *the annual amount of natural gas reason-*  
6            *ably expected to be purchased (other than*  
7            *for resale) by persons who are located with-*  
8            *in the service area of such utility and who,*  
9            *as of the date of issuance of the issue, are*  
10           *customers of such utility.*

11           *“(E) RULING REQUESTS.—The Secretary*  
12           *may increase the average under subparagraph*  
13           *(B)(i) for any period if the utility owned by the*  
14           *governmental unit establishes to the satisfaction*  
15           *of the Secretary that, based on objective evidence*  
16           *of growth in natural gas consumption or popu-*  
17           *lation, such average would otherwise be insuffi-*  
18           *cient for such period.*

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

21           *“(i) IN GENERAL.—The amount other-*  
22           *wise permitted to be acquired under the*  
23           *contract for any period shall be reduced*  
24           *by—*

1           “(I) the applicable share of nat-  
2           ural gas held by the utility on the date  
3           of issuance of the issue, and

4           “(II) the natural gas (not taken  
5           into account under subclause (I))  
6           which the utility has a right to acquire  
7           during such period (determined as of  
8           the date of issuance of the issue).

9           “(ii) *APPLICABLE SHARE*.—For pur-  
10          poses of the clause (i), the term ‘applicable  
11          share’ means, with respect to any period,  
12          the natural gas allocable to such period if  
13          the gas were allocated ratably over the pe-  
14          riod to which the prepayment relates.

15          “(G) *INTENTIONAL ACTS*.—Subparagraph  
16          (A) shall cease to apply to any issue if the util-  
17          ity owned by the governmental unit engages in  
18          any intentional act to render the volume of nat-  
19          ural gas acquired by such prepayment to be in  
20          excess of the sum of—

21                 “(i) the amount of natural gas needed  
22                 (other than for resale) by customers of such  
23                 utility who are located within the service  
24                 area of such utility, and

1                   “(ii) the amount of natural gas used to  
2                   transport such natural gas to the utility.

3                   “(H) TESTING PERIOD.—For purposes of  
4                   this paragraph, the term ‘testing period’ means,  
5                   with respect to an issue, the most recent 5 cal-  
6                   endar years ending before the date of issuance of  
7                   the issue.

8                   “(I) SERVICE AREA.—For purposes of this  
9                   paragraph, the service area of a utility owned by  
10                  a governmental unit shall be comprised of—

11                  “(i) any area throughout which such  
12                  utility provided at all times during the test-  
13                  ing period—

14                  “(I) in the case of a natural gas  
15                  utility, natural gas transmission or  
16                  distribution services, and

17                  “(II) in the case of an electric  
18                  utility, electricity distribution services,

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

1                   “(iii) any area recognized as the serv-  
2                   ice area of such utility under State or Fed-  
3                   eral law.”.

4           (b) *PRIVATE LOAN FINANCING TEST NOT TO APPLY TO*  
5 *PREPAYMENTS FOR NATURAL GAS.*—Paragraph (2) of sec-  
6 *tion 141(c) (providing exceptions to the private loan financ-*  
7 *ing test) is amended by striking “or” at the end of subpara-*  
8 *graph (A), by striking the period at the end of subpara-*  
9 *graph (B) and inserting “, or”, and by adding at the end*  
10 *the following new subparagraph:*

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

13           (c) *EXCEPTION FOR QUALIFIED ELECTRIC AND NAT-*  
14 *URAL GAS SUPPLY CONTRACTS.*—Section 141(d) is amend-  
15 *ed by adding at the end the following new paragraph:*

16                   “(7) *EXCEPTION FOR QUALIFIED ELECTRIC AND*  
17 *NATURAL GAS SUPPLY CONTRACTS.*—The term ‘non-  
18 *governmental output property*’ shall not include any  
19 *contract for the prepayment of electricity or natural*  
20 *gas which is not investment property under section*  
21 *148(b)(2).”.*

22           (d) *EFFECTIVE DATE.*—The amendments made by this  
23 *section shall apply to obligations issued after the date of*  
24 *the enactment of this Act.*

1 **SEC. 108. DETERMINATION OF SMALL REFINER EXCEPTION**  
2 **TO OIL DEPLETION DEDUCTION.**

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

6 “(4) *CERTAIN REFINERS EXCLUDED.*—If the tax-  
7 payer or 1 or more related persons engages in the re-  
8 fining of crude oil, subsection (c) shall not apply to  
9 the taxpayer for a taxable year if the average daily  
10 refinery runs of the taxpayer and such persons for the  
11 taxable year exceed 75,000 barrels. For purposes of  
12 this paragraph, the average daily refinery runs for  
13 any taxable year shall be determined by dividing the  
14 aggregate refinery runs for the taxable year by the  
15 number of days in the taxable year.”.

16 (b) *EFFECTIVE DATE.*—The amendment made by this  
17 section shall apply to taxable years ending after the date  
18 of the enactment of this Act.

19 **TITLE II—MISCELLANEOUS**  
20 **ENERGY TAX INCENTIVES**

21 **SEC. 201. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
22 **PROPERTY.**

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

1 **“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

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

6               “(1) *15 percent of the qualified solar water heat-*  
7 *ing property expenditures made by the taxpayer dur-*  
8 *ing such year,*

9               “(2) *15 percent of the qualified photovoltaic*  
10 *property expenditures made by the taxpayer during*  
11 *such year, and*

12               “(3) *15 percent of the qualified fuel cell property*  
13 *expenditures made by the taxpayer during such year.*

14       “(b) *LIMITATIONS.*—

15               “(1) *MAXIMUM CREDIT.*—

16                       “(A) *IN GENERAL.*—*The credit allowed*  
17 *under subsection (a) shall not exceed—*

18                               “(i) *\$2,000 for solar water heating*  
19 *property described in subsection (c)(1),*

20                               “(ii) *\$2,000 for photovoltaic property*  
21 *described in subsection (c)(2), and*

22                               “(iii) *\$500 for each 0.5 kilowatt of ca-*  
23 *capacity of property described in subsection*  
24 *(c)(3).*

25                       “(B) *PRIOR EXPENDITURES BY TAXPAYER*  
26 *ON SAME RESIDENCE TAKEN INTO ACCOUNT.*—*In*

1           *determining the amount of the credit allowed to*  
2           *a taxpayer with respect to any dwelling unit*  
3           *under this section, the dollar amounts under*  
4           *clauses (i) and (ii) of subparagraph (A) with re-*  
5           *spect to each type of property described in such*  
6           *clauses shall be reduced by the credit allowed to*  
7           *the taxpayer under this section with respect to*  
8           *such type of property for all preceding taxable*  
9           *years with respect to such dwelling unit.*

10           “(2) *PROPERTY STANDARDS.*—*No credit shall be*  
11           *allowed under this section for an item of property un-*  
12           *less—*

13                   “(A) *the original use of such property com-*  
14                   *mences with the taxpayer,*

15                   “(B) *such property can be reasonably ex-*  
16                   *pected to remain in use for at least 5 years,*

17                   “(C) *such property is installed on or in*  
18                   *connection with a dwelling unit located in the*  
19                   *United States and used as a residence by the*  
20                   *taxpayer,*

21                   “(D) *in the case of solar water heating*  
22                   *property, such property is certified for perform-*  
23                   *ance by the non-profit Solar Rating and Certifi-*  
24                   *cation Corporation or a comparable entity en-*

1           dorsed by the government of the State in which  
2           such property is installed, and

3                   “(E) in the case of fuel cell property, such  
4           property meets the performance and quality  
5           standards (if any) which have been prescribed by  
6           the Secretary by regulations (after consultation  
7           with the Secretary of Energy).

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

9                   “(1) QUALIFIED SOLAR WATER HEATING PROP-  
10          PERTY EXPENDITURE.—The term ‘qualified solar water  
11          heating property expenditure’ means an expenditure  
12          for property which uses solar energy to heat water for  
13          use in a dwelling unit.

14                  “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-  
15          PENDITURE.—The term ‘qualified photovoltaic prop-  
16          erty expenditure’ means an expenditure for property  
17          which uses solar energy to generate electricity for use  
18          in a dwelling unit and which is not described in  
19          paragraph (1).

20                  “(3) QUALIFIED FUEL CELL PROPERTY EXPENDI-  
21          TURE.—The term ‘qualified fuel cell property expend-  
22          iture’ means an expenditure for any qualified fuel cell  
23          property (as defined in section 48(b)(1)).

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

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

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

13          “(3) *DOLLAR AMOUNTS IN CASE OF JOINT OCCU-*  
14          *PANCY.*—In the case of any dwelling unit which is  
15          jointly occupied and used during any calendar year  
16          as a residence by 2 or more individuals, the following  
17          rules shall apply:

18                 “(A) The amount of the credit allowable  
19                 under subsection (a) by reason of expenditures  
20                 made during such calendar year by any of such  
21                 individuals with respect to such dwelling unit  
22                 shall be determined by treating all of such indi-  
23                 viduals as 1 taxpayer whose taxable year is such  
24                 calendar year.

1           “(B) *There shall be allowable, with respect*  
2           *to such expenditures to each of such individuals,*  
3           *a credit under subsection (a) for the taxable year*  
4           *in which such calendar year ends in an amount*  
5           *which bears the same ratio to the amount deter-*  
6           *mined under subparagraph (A) as the amount of*  
7           *such expenditures made by such individual dur-*  
8           *ing such calendar year bears to the aggregate of*  
9           *such expenditures made by all of such individ-*  
10          *uals during such calendar year.*

11           “(C) *Subparagraphs (A) and (B) shall be*  
12          *applied separately with respect to expenditures*  
13          *described in paragraphs (1), (2), and (3) of sub-*  
14          *section (c).*

15           “(4) *TENANT-STOCKHOLDER IN COOPERATIVE*  
16          *HOUSING CORPORATION.—In the case of an indi-*  
17          *vidual who is a tenant-stockholder (as defined in sec-*  
18          *tion 216) in a cooperative housing corporation (as de-*  
19          *finied in such section), such individual shall be treated*  
20          *as having made the individual’s tenant-stockholder’s*  
21          *proportionate share (as defined in section 216(b)(3))*  
22          *of any expenditures of such corporation.*

23           “(5) *CONDOMINIUMS.—*

24           “(A) *IN GENERAL.—In the case of an indi-*  
25          *vidual who is a member of a condominium man-*

1           *agement association with respect to a condo-*  
2           *minium which the individual owns, such indi-*  
3           *vidual shall be treated as having made the indi-*  
4           *vidual's proportionate share of any expenditures*  
5           *of such association.*

6           “(B) CONDOMINIUM MANAGEMENT ASSOCIA-  
7           TION.—*For purposes of this paragraph, the term*  
8           *‘condominium management association’ means*  
9           *an organization which meets the requirements of*  
10           *paragraph (1) of section 528(c) (other than sub-*  
11           *paragraph (E) thereof) with respect to a condo-*  
12           *minium project substantially all of the units of*  
13           *which are used as residences.*

14           “(6) ALLOCATION IN CERTAIN CASES.—*If less*  
15           *than 80 percent of the use of an item is for nonbusi-*  
16           *ness purposes, only that portion of the expenditures*  
17           *for such item which is properly allocable to use for*  
18           *nonbusiness purposes shall be taken into account.*

19           “(7) WHEN EXPENDITURE MADE; AMOUNT OF  
20           EXPENDITURE.—

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

1           “(B) *EXPENDITURES PART OF BUILDING*  
2           *CONSTRUCTION.*—*In the case of an expenditure*  
3           *in connection with the construction or recon-*  
4           *struction of a structure, such expenditure shall be*  
5           *treated as made when the original use of the con-*  
6           *structed or reconstructed structure by the tax-*  
7           *payer begins.*

8           “(C) *AMOUNT.*—*The amount of any expend-*  
9           *iture shall be the cost thereof.*

10          “(8) *PROPERTY FINANCED BY SUBSIDIZED EN-*  
11          *ERGY FINANCING.*—*For purposes of determining the*  
12          *amount of expenditures made by any individual with*  
13          *respect to any dwelling unit, there shall not be taken*  
14          *into account expenditures which are made from sub-*  
15          *sidized energy financing (as defined in section*  
16          *48(a)(4)(C)).*

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

23          “(f) *TERMINATION.*—*The credit allowed under this sec-*  
24          *tion shall not apply to taxable years beginning after Decem-*  
25          *ber 31, 2007.”.*

1 (b) *CONFORMING AMENDMENTS.*—

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

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

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

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

14 (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 15 *section shall apply to expenditures made after the date of*  
 16 *the enactment of this Act.*

17 **SEC. 202. CREDIT FOR BUSINESS INSTALLATION OF QUALI-**  
 18 **FIED FUEL CELLS.**

19 (a) *IN GENERAL.*—*Section 48(a)(3)(A) (defining en-*  
 20 *ergy property) is amended by striking “or” at the end of*  
 21 *clause (i), by adding “or” at the end of clause (ii), and*  
 22 *by inserting after clause (ii) the following new clause:*

23 “(iii) *qualified fuel cell property,*”.

1           (b) *ENERGY PERCENTAGE.*—Subparagraph (A) of sec-  
2   tion 48(a)(2) (relating to energy percentage) is amended to  
3   read as follows:

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

6                           “(i) in the case of qualified fuel cell  
7                           property, 15 percent, and

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

10          (c) *QUALIFIED FUEL CELL PROPERTY.*—Section 48  
11   (relating to energy credit) is amended—

12                   (1) by redesignating subsection (b) as paragraph  
13                   (5) of subsection (a),

14                   (2) by striking “subsection (a)” in paragraph  
15                   (5) of subsection (a), as redesignated by paragraph  
16                   (1), and inserting “this subsection”, and

17                   (3) by adding at the end the following new sub-  
18                   section:

19                   “(b) *QUALIFIED FUEL CELL PROPERTY.*—For pur-  
20   poses of subsection (a)(3)(A)(iii)—

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

23                           “(A) generates at least 0.5 kilowatt of elec-  
24                           tricity using an electrochemical process, and

1           “(B) has an electricity-only generation effi-  
2           ciency greater than 30 percent.

3           “(2) *LIMITATION.*—The energy credit with re-  
4           spect to any qualified fuel cell property shall not ex-  
5           ceed an amount equal to \$500 for each 0.5 kilowatt  
6           of capacity of such property.

7           “(3) *FUEL CELL POWER PLANT.*—The term ‘fuel  
8           cell power plant’ means an integrated system, com-  
9           prised of a fuel cell stack assembly and associated bal-  
10          ance of plant components, which converts a fuel into  
11          electricity using electrochemical means.

12          “(4) *TERMINATION.*—The term ‘qualified fuel cell  
13          property’ shall not include any property placed in  
14          service after December 31, 2007.”.

15          (d) *CONFORMING AMENDMENT.*—Section 48(a)(1) is  
16          amended by inserting “except as provided in subsection  
17          (b)(2),” before “the energy” the first place it appears.

18          (e) *EFFECTIVE DATE.*—The amendments made by this  
19          section shall apply to property placed in service after April  
20          11, 2005, under rules similar to the rules of section 48(m)  
21          of the Internal Revenue Code of 1986 (as in effect on the  
22          day before the date of the enactment of the Revenue Rec-  
23          onciliation Act of 1990).

1 **SEC. 203. 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 “(D) *DIESEL-WATER FUEL EMULSION.*—In  
 6 the case of diesel-water fuel emulsion at least  
 7 16.9 percent of which is water and with respect  
 8 to 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)(D) 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)(D).*

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)(D).”.*

15           *(2) LATER SEPARATION OF FUEL.—Section 4081*  
16       *(relating to imposition of tax) is amended by insert-*  
17       *ing after subsection (b) the following new subsection:*

18       *“(c) LATER SEPARATION OF FUEL FROM DIESEL-*  
19       *WATER FUEL EMULSION.—If any person separates the tax-*  
20       *able fuel from a diesel-water fuel emulsion on which tax*  
21       *was imposed under subsection (a) at a rate determined*  
22       *under subsection (a)(2)(D) (or with respect to which a cred-*  
23       *it or payment was allowed or made by reason of section*  
24       *6427), such person shall be treated as the refiner of such*  
25       *taxable fuel. The amount of tax imposed on any removal*

1 of such fuel by such person shall be reduced by the amount  
 2 of tax imposed (and not credited or refunded) on any prior  
 3 removal or entry of such fuel.”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this  
 5 section shall take effect on January 1, 2006.

6 **SEC. 204. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

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

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

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

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

23 “(3) *EXCLUSIVE METHOD.*—Except as provided  
 24 in this subsection, no depreciation or amortization

1       *deduction shall be allowed with respect to such pay-*  
 2       *ments.*

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

10              “(5) *DELAY RENTAL PAYMENTS.*—*For purposes*  
 11       *of this subsection, the term ‘delay rental payment’*  
 12       *means an amount paid for the privilege of deferring*  
 13       *development of an oil or gas well under an oil or gas*  
 14       *lease.”.*

15              “(b) *EFFECTIVE DATE.*—*The amendments made by this*  
 16       *section shall apply to amounts paid or incurred in taxable*  
 17       *years beginning after the date of the enactment of this Act.*

18       **SEC. 205. AMORTIZATION OF GEOLOGICAL AND GEO-**  
 19                               **PHYSICAL EXPENDITURES.**

20              “(a) *IN GENERAL.*—*Section 167 (relating to deprecia-*  
 21       *tion), as amended by section 204 of this Act, is amended*  
 22       *by redesignating subsection (i) as subsection (j) and by in-*  
 23       *serting after subsection (h) the following new subsection:*

24              “(i) *AMORTIZATION OF GEOLOGICAL AND GEO-*  
 25       *PHYSICAL EXPENDITURES.*—



1 *taxable year an amount equal to the sum of the credit*  
2 *amounts determined under subsection (b) with respect to*  
3 *each qualified advanced lean burn technology motor vehicle*  
4 *placed in service by the taxpayer during the taxable year.*

5       “(b) *CREDIT AMOUNT.*—*For purposes of subsection*  
6 *(a)—*

7               “(1) *FUEL EFFICIENCY.*—*The credit amount*  
8 *with respect to any vehicle shall be—*

9                       “(A) *\$500, if the city fuel economy of such*  
10 *vehicle is at least 125 percent but less than 150*  
11 *percent of the 2000 model year city fuel economy*  
12 *for a vehicle in the same inertia weight class,*

13                       “(B) *\$1,000, if the city fuel economy of such*  
14 *vehicle is at least 150 percent but less than 175*  
15 *percent of the 2000 model year city fuel economy*  
16 *for a vehicle in the same inertia weight class,*

17                       “(C) *\$1,500, if the city fuel economy of such*  
18 *vehicle is at least 175 percent but less than 200*  
19 *percent of the 2000 model year city fuel economy*  
20 *for a vehicle in the same inertia weight class,*

21                       “(D) *\$2,000, if the city fuel economy of such*  
22 *vehicle is at least 200 percent but less than 225*  
23 *percent of the 2000 model year city fuel economy*  
24 *for a vehicle in the same inertia weight class,*

1           “(E) \$2,500, if the city fuel economy of such  
2           vehicle is at least 225 percent but less than 250  
3           percent of the 2000 model year city fuel economy  
4           for a vehicle in the same inertia weight class,  
5           and

6           “(F) \$3,000, if the city fuel economy of such  
7           vehicle is at least 250 percent of the 2000 model  
8           year city fuel economy for a vehicle in the same  
9           inertia weight class.

10          “(2) CONSERVATION.—The credit amount deter-  
11          mined under paragraph (1) with respect to any vehi-  
12          cle shall be increased by—

13               “(A) \$250, if the lifetime fuel savings of  
14               such vehicle is at least 1,500 gallons of motor  
15               fuel but less than 2,500 gallons of motor fuel,  
16               and

17               “(B) \$500, if the lifetime fuel savings of  
18               such vehicle is at least 2,500 gallons of motor  
19               fuel.

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

23               “(1) the sum of the regular tax liability (as de-  
24               fined in section 26(b)) plus the tax imposed by section  
25               55, over

1           “(2) *the sum of the credits allowable under sub-*  
2 *part A and sections 27 and 30A for the taxable year.*

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

4           “(1) *QUALIFIED ADVANCED LEAN BURN TECH-*  
5 *NOLOGY MOTOR VEHICLE.—The term ‘qualified ad-*  
6 *vanced lean burn technology motor vehicle’ means a*  
7 *motor vehicle—*

8           “(A) *the original use of which commences*  
9 *with the taxpayer,*

10           “(B) *powered by an internal combustion en-*  
11 *gine that—*

12           “(i) *is designed to operate primarily*  
13 *using more air than is necessary for com-*  
14 *plete combustion of the fuel, and*

15           “(ii) *incorporates direct injection,*

16           “(C) *that only uses diesel fuel (as defined in*  
17 *section 4083(a)(3)),*

18           “(D) *the city fuel economy of which is at*  
19 *least 125 percent of the 2000 model year city fuel*  
20 *economy for a vehicle in the same inertia weight*  
21 *class, and*

22           “(E) *that has received a certificate that*  
23 *such vehicle meets or exceeds the Bin 8 Tier II*  
24 *emission level established in regulations pre-*  
25 *scribed by the Administrator of the Environ-*

1           *mental Protection Agency under section 202(i) of*  
 2           *the Clean Air Act.*

3           “(2) *LIFETIME FUEL SAVINGS.—The term ‘life-*  
 4           *time fuel savings’ means, with respect to a qualified*  
 5           *advanced lean burn technology motor vehicle, an*  
 6           *amount equal to the excess (if any) of—*

7                   “(A) *120,000 divided by the 2000 model*  
 8                   *year city fuel economy for the vehicle inertia*  
 9                   *weight class, over*

10                   “(B) *120,000 divided by the city fuel econ-*  
 11                   *omy for such vehicle.*

12           “(3) *2000 MODEL YEAR CITY FUEL ECONOMY.—*  
 13           *The 2000 model year city fuel economy with respect*  
 14           *to a vehicle shall be determined in accordance with*  
 15           *the following tables:*

16                   “(A) *In the case of a passenger automobile:*

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

17                   “(B) *In the case of a light truck:*

***“If vehicle inertia weight The 2000 model year city fuel class is: economy is:***

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.

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

3           “(5) *CITY FUEL ECONOMY.*—*City fuel economy*  
 4           *with respect to any vehicle shall be measured in ac-*  
 5           *cordance with testing and calculation procedures es-*  
 6           *tablished by the Administrator of the Environmental*  
 7           *Protection Agency by regulations in effect on April*  
 8           *11, 2005.*

9           “(6) *OTHER TERMS.*—*The terms ‘passenger auto-*  
 10           *mobile’, ‘light truck’, and ‘manufacturer’ shall have*  
 11           *the meanings given such terms in regulations pre-*  
 12           *scribed by the Administrator of the Environmental*  
 13           *Protection Agency for purposes of the administration*  
 14           *of title II of the Clean Air Act (42 U.S.C. 7521 et*  
 15           *seq.).*

16           “(e) *CARRYFORWARD ALLOWED.*—

17           “(1) *IN GENERAL.*—*If the credit amount allow-*  
 18           *able under subsection (a) for a taxable year exceeds*

1        *the amount of the limitation under subsection (c) for*  
2        *such taxable year (referred to as the ‘unused credit*  
3        *year’ in this paragraph), such excess shall be allowed*  
4        *as a credit carryforward for each of the 20 taxable*  
5        *years following the unused credit year.*

6            *“(2) RULES.—Rules similar to the rules of sec-*  
7        *tion 39 shall apply with respect to the credit*  
8        *carryforward under paragraph (1).*

9            *“(f) SPECIAL RULES.—For purposes of this section—*

10            *“(1) REDUCTION IN BASIS.—The basis of any*  
11        *property for which a credit is allowable under sub-*  
12        *section (a) shall be reduced by the amount of such*  
13        *credit (determined without regard to subsection (c)).*

14            *“(2) NO DOUBLE BENEFIT.—The amount of any*  
15        *deduction or credit allowable under this chapter*  
16        *(other than the credit allowable under subsection (a)),*  
17        *with respect to any vehicle shall be reduced by the*  
18        *amount of credit allowed under subsection (a) (deter-*  
19        *mined without regard to subsection (c)) for such vehi-*  
20        *cle for the taxable year.*

21            *“(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—*  
22        *In the case of a vehicle whose use is described in*  
23        *paragraph (3) or (4) of section 50(b) and which is*  
24        *not subject to a lease, the person who sold such vehicle*  
25        *to the person or entity using such vehicle shall be*

1       *treated as the taxpayer that placed such vehicle in*  
2       *service, but only if such person clearly discloses to*  
3       *such person or entity in a document the amount of*  
4       *any credit allowable under subsection (a) with respect*  
5       *to such vehicle (determined without regard to sub-*  
6       *section (c)).*

7               “(4) *PROPERTY USED OUTSIDE UNITED STATES,*  
8       *ETC., NOT QUALIFIED.*—*No credit shall be allowable*  
9       *under subsection (a) with respect to any property re-*  
10       *ferred to in section 50(b)(1) or with respect to the*  
11       *portion of the cost of any property taken into account*  
12       *under section 179.*

13               “(5) *ELECTION NOT TO TAKE CREDIT.*—*No credit*  
14       *shall be allowed under subsection (a) for any vehicle*  
15       *if the taxpayer elects not to have this section apply*  
16       *to such vehicle.*

17               “(6) *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           “(g) *REGULATIONS.—*

7           “(1) *IN GENERAL.—The Secretary shall promul-*  
8           *gate such regulations as necessary to carry out this*  
9           *section, including regulations to prevent the avoid-*  
10          *ance of the purposes of this section through disposal*  
11          *of any motor vehicle or leasing of any motor vehicle*  
12          *for a lease period of less than the economic life of such*  
13          *vehicle.*

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

21          “(h) *TERMINATION.—This section shall not apply to*  
22          *any property placed in service after December 31, 2007.”.*

23          “(b) *CONFORMING AMENDMENTS.—*

24                  “(1) *Section 1016(a), as amended by section 201*  
25                  *of this Act, is amended by striking “and” at the end*

1 of paragraph (31), by striking the period at the end  
2 of paragraph (32) and inserting “, and”, and by add-  
3 ing at the end the following:

4 “(33) to the extent provided in section  
5 30B(f)(1).”.

6 (2) Section 6501(m) is amended by inserting  
7 “30B(f)(6),” after “30(d)(4),”.

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

“Sec. 30B. Advanced lean burn technology motor vehicle credit.”.

11 (c) *EFFECTIVE DATE.*—The amendments made by this  
12 section shall apply to property placed in service after the  
13 date of the enactment of this Act in taxable years ending  
14 after such date.

15 **SEC. 207. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
16 **MENTS TO EXISTING HOMES.**

17 (a) *IN GENERAL.*—Subpart A of part IV of subchapter  
18 A of chapter 1 (relating to nonrefundable personal credits),  
19 as amended by section 201, is amended by inserting after  
20 section 25C the following new section:

21 **“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
22 **ING HOMES.**

23 “(a) *ALLOWANCE OF CREDIT.*—In the case of an indi-  
24 vidual, there shall be allowed as a credit against the tax  
25 imposed by this chapter for the taxable year an amount

1 *equal to 20 percent of the amount paid or incurred by the*  
2 *taxpayer for qualified energy efficiency improvements in-*  
3 *stalled during such taxable year.*

4 “(b) *LIMITATIONS.—*

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

8 “(2) *PRIOR CREDIT AMOUNTS FOR TAXPAYER ON*  
9 *SAME DWELLING TAKEN INTO ACCOUNT.—If a credit*  
10 *was allowed to the taxpayer under subsection (a) with*  
11 *respect to a dwelling unit in 1 or more prior taxable*  
12 *years, the amount of the credit otherwise allowable for*  
13 *the taxable year with respect to that dwelling unit*  
14 *shall be reduced by the sum of the credits allowed*  
15 *under subsection (a) to the taxpayer with respect to*  
16 *the dwelling unit for all prior taxable years.*

17 “(c) *QUALIFIED ENERGY EFFICIENCY IMPROVE-*  
18 *MENTS.—For purposes of this section, the term ‘qualified*  
19 *energy efficiency improvements’ means any energy efficient*  
20 *building envelope component which meets the prescriptive*  
21 *criteria for such component established by the 2000 Inter-*  
22 *national Energy Conservation Code, as such Code (includ-*  
23 *ing supplements) is in effect on the date of the enactment*  
24 *of the Enhanced Energy Infrastructure and Technology Tax*  
25 *Act of 2005 (or, in the case of a metal roof with appropriate*

1 *pigmented coatings which meet the Energy Star program*  
2 *requirements), if—*

3           “(1) *such component is installed in or on a*  
4 *dwelling unit located in the United States and owned*  
5 *and used by the taxpayer as the taxpayer’s principal*  
6 *residence (within the meaning of section 121),*

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

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

11 *If the aggregate cost of such components with respect to any*  
12 *dwelling unit exceeds \$1,000, such components shall be*  
13 *treated as qualified energy efficiency improvements only if*  
14 *such components are also certified in accordance with sub-*  
15 *section (d) as meeting such prescriptive criteria.*

16           “(d) *CERTIFICATION.—The certification described in*  
17 *subsection (c) shall be—*

18           “(1) *determined on the basis of the technical*  
19 *specifications or applicable ratings (including prod-*  
20 *uct labeling requirements) for the measurement of en-*  
21 *ergy efficiency (based upon energy use or building en-*  
22 *velope component performance) for the energy efficient*  
23 *building envelope component,*

24           “(2) *provided by a local building regulatory au-*  
25 *thority, a utility, a manufactured home production*

1        *inspection primary inspection agency (IPIA), or an*  
2        *accredited home energy rating system provider who is*  
3        *accredited by or otherwise authorized to use approved*  
4        *energy performance measurement methods by the Res-*  
5        *idential Energy Services Network (RESNET), and*

6                *“(3) made in writing in a manner which speci-*  
7        *fies in readily verifiable fashion the energy efficient*  
8        *building envelope components installed and their re-*  
9        *spective energy efficiency levels.*

10        *“(e) DEFINITIONS AND SPECIAL RULES.—For pur-*  
11        *poses of this section—*

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

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

18                *“(B) exterior windows (including skylights),*

19                *“(C) exterior doors, and*

20                *“(D) any metal roof installed on a dwelling*  
21        *unit, but only if such roof has appropriate pig-*  
22        *mented coatings which are specifically and pri-*  
23        *marily designed to reduce the heat gain of such*  
24        *dwelling unit.*

1           “(2) *MANUFACTURED HOMES INCLUDED.*—*The*  
2           *term ‘dwelling unit’ includes a manufactured home*  
3           *which conforms to Federal Manufactured Home Con-*  
4           *struction and Safety Standards (section 3280 of title*  
5           *24, Code of Federal Regulations).*

6           “(3) *APPLICATION OF RULES.*—*Rules similar to*  
7           *the rules under paragraphs (3), (4), and (5) of section*  
8           *25C(d) shall apply.*

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

15          “(g) *APPLICATION OF SECTION.*—*This section shall*  
16          *apply to qualified energy efficiency improvements installed*  
17          *after the date of the enactment of the Enhanced Energy In-*  
18          *frastructure and Technology Tax Act of 2005, and before*  
19          *January 1, 2008.”.*

20          (b) *CONFORMING AMENDMENTS.*—

21                 (1) *Subsection (a) of section 1016, as amended*  
22                 *by section 206 of this Act, is amended by striking*  
23                 *“and” at the end of paragraph (32), by striking the*  
24                 *period at the end of paragraph (33) and inserting “,*

1 *and”, and by adding at the end the following new*  
 2 *paragraph:*

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

6 *(2) The table of sections for subpart A of part IV*  
 7 *of subchapter A of chapter 1, as amended by section*  
 8 *201, is amended by inserting after the item relating*  
 9 *to section 25C the following new item:*

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

10 *(c) EFFECTIVE DATE.—The amendments made by this*  
 11 *section shall apply to improvements installed after the date*  
 12 *of the enactment of this Act in taxable years ending after*  
 13 *such date.*

## 14 **TITLE III—ALTERNATIVE** 15 **MINIMUM TAX RELIEF**

16 **SEC. 301. NEW NONREFUNDABLE PERSONAL CREDITS AL-**  
 17 **LOWED AGAINST REGULAR AND MINIMUM**  
 18 **TAXES.**

19 *(a) IN GENERAL.—*

20 *(1) SECTION 25C.—Section 25C(b), as added by*  
 21 *section 201 of this Act, is amended by adding at the*  
 22 *end the following new paragraph:*

23 *“(3) LIMITATION BASED ON AMOUNT OF TAX.—*  
 24 *The credit allowed under subsection (a) for the tax-*  
 25 *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           (2) SECTION 25D.—Section 25D(b), as added by  
8           section 207 of this Act, is amended by adding at the  
9           end the following new paragraph:

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

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

16           “(B) the sum of the credits allowable under  
17           this subpart (other than this section) and section  
18           27 for the taxable year.”.

19           (b) CONFORMING AMENDMENTS.—

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

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

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



1                   2008, the credit determined under section  
2                   43, and”.

3           (b) *EFFECTIVE DATES.*—

4                   (1) *IN GENERAL.*—*Except as provided by para-*  
5                   *graph (2), the amendment made by subsection (a)*  
6                   *shall apply to credits determined under the Internal*  
7                   *Revenue Code of 1986 for taxable years beginning*  
8                   *after December 31, 2005.*

9                   (2) *FUEL CELLS.*—*Clause (ii) of section*  
10                   *38(c)(4)(B) of the Internal Revenue Code of 1986, as*  
11                   *amended by subsection (a) of this section, shall apply*  
12                   *to credits determined under the Internal Revenue*  
13                   *Code of 1986 for taxable years ending after April 11,*  
14                   *2005.*



Union Calendar No. 25

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1541**

[Report No. 109-45]

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**A BILL**

To amend the Internal Revenue Code of 1986 to enhance energy infrastructure properties in the United States and to encourage the use of certain energy technologies, and for other purposes.

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APRIL 18, 2005

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