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HOUSE OF REPRESENTATIVES
REPORT
109–45

ENHANCED ENERGY INFRASTRUCTURE AND TECHNOLOGY TAX POLICY ACT OF 2005

APRIL 18, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 1541]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1541) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Enhanced Energy Infrastructure and Technology Tax Act of 2005".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

TITLE I—ENERGY INFRASTRUCTURE TAX INCENTIVES

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

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

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

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

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

"(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

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

"(i) a gas processing plant,

"(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

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

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

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

"(C) (iv) ..... 14".

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: ", or in section 168(e)(3)(C)(iv)".

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

SEC. 102. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting ", and", and by adding at the end the following new clause:

"(vii) any natural gas distribution line.".

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

"(E) (vii) ..... 35".

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

SEC. 103. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

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

"(viii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005.".

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

"(E) (viii) ..... 30".

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

SEC. 104. EXPANSION OF AMORTIZATION FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES IN CONNECTION WITH PLANTS FIRST PLACED IN SERVICE AFTER 1975.

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

"(5) SPECIAL RULE RELATING TO CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—In the case of any atmospheric pollution control facility which is placed in service after April 11, 2005, and used in connection with an electric generation plant or other property which is primarily coal fired, paragraph (1) shall be applied without regard to the phrase 'in operation before January 1, 1976'.".

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

"(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER APRIL 11, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting 'April 11, 2005' for 'December 31, 1968' each place it appears therein.".

(c) TECHNICAL AMENDMENT.—Section 169(d)(3) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

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

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

(a) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45J and by moving section 45J (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following:

"(20) the nonconventional source production credit determined under section 45J(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(3)(A) is amended by striking "sections 27 and 29" and inserting "section 27".

(B) Sections 43(b)(2), 45I(b)(2)(C)(i), and 613A(c)(6)(C) are each amended by striking "section 29(d)(2)(C)" and inserting "section 45J(d)(2)(C)".

(C) Section 45(e)(9) is amended—

(i) by striking "section 29" and inserting "section 45J", and

(ii) by inserting "(or under section 29, as in effect on the day before the date of enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, for any prior taxable year)" before the period at the end thereof.

(D) Section 45I is amended—

(i) in subsection (c)(2)(A) by striking "section 29(d)(5))" and inserting "section 45J(d)(5))", and

(ii) in subsection (d)(3) by striking "section 29" both places it appears and inserting "section 45J".

(E) Section 45J(a), as redesignated by paragraph (1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is".

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

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

(H) Section 55(c)(3) is amended by striking "29(b)(6),".

(I) Subsection (a) of section 772 is amended by inserting "and" at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(J) Paragraph (5) of section 772(d) is amended by striking "the foreign tax credit, and the credit allowable under section 29" and inserting "and the foreign tax credit".

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

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

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

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

(1) IN GENERAL.—Section 29(c)(2)(A) (before redesignation under subsection (a)) is amended—

(A) by inserting "(as in effect before the repeal of such section)" after "1978", and

(B) by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

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

(A) in subparagraph (A) by striking "subsection (f)(1)(B)" and inserting "subsection (e)(1)(B)", and

(B) in subparagraph (B) by striking "subsection (f)" and inserting "subsection (e)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 106. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

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

(b) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

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

"(f) TRANSFERS INTO QUALIFIED FUNDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005.

"(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

"(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

"(C) TRANSFERS OF QUALIFIED FUNDS.—If—

"(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

"(ii) such Fund is transferred thereafter,

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

"(D) SPECIAL RULES.—

"(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS TO FUND.—No gain or loss shall be recognized on any transfer described in paragraph (1).

"(ii) TRANSFERS OF APPRECIATED PROPERTY TO FUND.—If appreciated property is transferred in a transfer described in paragraph (1), the amount of the deduction shall not exceed the adjusted basis of such property.

"(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and".

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

(1) by striking "rate set forth in subparagraph (B)" in subparagraph (A) and inserting "rate of 20 percent",

(2) by striking subparagraph (B), and

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 107. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

"(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

"(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

"(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

"(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

"(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

"(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

"(i) only if the electricity is generated by a utility owned by a governmental unit, and

"(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

"(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

"(i) NEW BUSINESS CUSTOMERS.—If—

"(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

"(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

"(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

"(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

"(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

"(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

"(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

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

"(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

"(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

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

"(ii) the amount of natural gas used to transport such natural gas to the utility.

"(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

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

"(i) any area throughout which such utility provided at all times during the testing period—

"(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

"(II) in the case of an electric utility, electricity distribution services,

"(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

"(iii) any area recognized as the service area of such utility under State or Federal law.".

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).".

(c) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section 141(d) is amended by adding at the end the following new paragraph:

"(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term 'nongovernmental output property' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).".

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

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

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

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.".

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

TITLE II—MISCELLANEOUS ENERGY TAX INCENTIVES

SEC. 201. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

"SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

"(1) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(2) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year, and

"(3) 15 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed under subsection (a) shall not exceed—

"(i) $2,000 for solar water heating property described in subsection (c)(1),

"(ii) $2,000 for photovoltaic property described in subsection (c)(2), and

"(iii) $500 for each 0.5 kilowatt of capacity of property described in subsection (c)(3).

"(B) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—In determining the amount of the credit allowed to a taxpayer with respect to any dwelling unit under this section, the dollar amounts under clauses (i) and (ii) of subparagraph (A) with respect to each type of property described in such clauses shall be reduced by the credit allowed to the taxpayer under this section with respect to such type of property for all preceding taxable years with respect to such dwelling unit.

"(2) PROPERTY STANDARDS.—No credit shall be allowed under this section for an item of property unless—

"(A) the original use of such property commences with the taxpayer,

"(B) such property can be reasonably expected to remain in use for at least 5 years,

"(C) such property is installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer,

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

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

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

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property which uses solar energy to heat water for use in a dwelling unit.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit and which is not described in paragraph (1).

"(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for any qualified fuel cell property (as defined in section 48(b)(1)).

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

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

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

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

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

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

the aggregate of such expenditures made by all of such individuals during such calendar year.

"(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (c).

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

"(5) CONDOMINIUMS.—

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

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

"(6) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(7) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

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

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

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

"(8) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

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

"(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

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

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

"Sec. 25C. Residential energy efficient property.".

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

SEC. 202. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

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

"(iii) qualified fuel cell property,".

(b) ENERGY PERCENTAGE.—Subparagraph (A) of section 48(a)(2) (relating to energy percentage) is amended to read as follows:

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

"(i) in the case of qualified fuel cell property, 15 percent, and

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

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

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

(2) by striking "subsection (a)" in paragraph (5) of subsection (a), as redesignated by paragraph (1), and inserting "this subsection", and

(3) by adding at the end the following new subsection:

"(b) QUALIFIED FUEL CELL PROPERTY.—For purposes of subsection (a)(3)(A)(iii)—

"(1) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(A) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(B) has an electricity-only generation efficiency greater than 30 percent.

"(2) LIMITATION.—The energy credit with respect to any qualified fuel cell property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

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

"(4) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.".

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

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

SEC. 203. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

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

"(D) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least 16.9 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting '19.7 cents' for '24.3 cents'.".

(b) SPECIAL RULES FOR DIESEL-WATER FUEL EMULSIONS.—

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

"(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).".

(2) LATER SEPARATION OF FUEL.—Section 4081 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

"(c) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.".

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

SEC. 204. AMORTIZATION OF DELAY RENTAL PAYMENTS.

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

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

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

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

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

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

"(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

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

SEC. 205. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 (relating to depreciation), as amended by section 204 of this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

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

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

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

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

SEC. 206. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following:

"SEC. 30B. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

"(b) CREDIT AMOUNT.—For purposes of subsection (a)—

"(1) FUEL EFFICIENCY.—The credit amount with respect to any vehicle shall be—

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

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

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

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

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

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

"(2) CONSERVATION.—The credit amount determined under paragraph (1) with respect to any vehicle shall be increased by—

"(A) $250, if the lifetime fuel savings of such vehicle is at least 1,500 gallons of motor fuel but less than 2,500 gallons of motor fuel, and

"(B) $500, if the lifetime fuel savings of such vehicle is at least 2,500 gallons of motor fuel.

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

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

"(2) the sum of the credits allowable under subpart A and sections 27 and 30A for the taxable year.

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

"(1) QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term 'qualified advanced lean burn technology motor vehicle' means a motor vehicle—

"(A) the original use of which commences with the taxpayer,

"(B) powered by an internal combustion engine that—

"(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel, and

"(ii) incorporates direct injection,

"(C) that only uses diesel fuel (as defined in section 4083(a)(3)),

"(D) the city fuel economy of which is at least 125 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class, and

"(E) that has received a certificate that such vehicle meets or exceeds the Bin 8 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act.

"(2) LIFETIME FUEL SAVINGS.—The term 'lifetime fuel savings' means, with respect to a qualified advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

"(A) 120,000 divided by the 2000 model year city fuel economy for the vehicle inertia weight class, over

"(B) 120,000 divided by the city fuel economy for such vehicle.

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

"(A) In the case of a passenger automobile:

"If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
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.

"(B) In the case of a light truck:

"If vehicle inertia weight class is:	The 2000 model year city fuel 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.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(5) CITY FUEL ECONOMY.—City fuel economy with respect to any vehicle shall be measured in accordance with testing and calculation procedures established by the Administrator of the Environmental Protection Agency by regulations in effect on April 11, 2005.

"(6) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' shall have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (c) for such taxable year (referred to as the 'unused credit year' in this paragraph), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) REDUCTION IN BASIS.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

"(2) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credit allowable under subsection (a)), with respect to any vehicle shall be reduced by the amount of credit allowed under subsection (a) (determined without regard to subsection (c)) for such vehicle for the taxable year.

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

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

"(6) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out this section, including regulations to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or leasing of any motor vehicle for a lease period of less than the economic life of such vehicle.

"(2) DETERMINATION OF MOTOR VEHICLE ELIGIBILITY.—The Secretary, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by section 201 of this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following:

"(33) to the extent provided in section 30B(f)(1).".

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

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

"Sec. 30B. Advanced lean burn technology motor vehicle credit.".

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

SEC. 207. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

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

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

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling unit shall not exceed $2,000.

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

"(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005 (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

"(1) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

"(2) the original use of such component commences with the taxpayer, and

"(3) such component reasonably can be expected to remain in use for at least 5 years.

If the aggregate cost of such components with respect to any dwelling unit exceeds $1,000, such components shall be treated as qualified energy efficiency improvements only if such components are also certified in accordance with subsection (d) as meeting such prescriptive criteria.

"(d) CERTIFICATION.—The certification described in subsection (c) shall be—

"(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency (based upon energy use or building envelope component performance) for the energy efficient building envelope component,

"(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Residential Energy Services Network (RESNET), and

"(3) made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

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

"(B) exterior windows (including skylights),

"(C) exterior doors, and

"(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

"(2) MANUFACTURED HOMES INCLUDED.—The term 'dwelling unit' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

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

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

"(g) APPLICATION OF SECTION.—This section shall apply to qualified energy efficiency improvements installed after the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, and before January 1, 2008.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by section 206 of this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by adding at the end the following new paragraph:

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

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

"Sec. 25D. Energy efficiency improvements to existing homes.".

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

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 301. NEW NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—

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

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

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

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

(2) SECTION 25D.—Section 25D(b), as added by section 207 of this Act, is amended by adding at the end the following new paragraph:

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

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

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

(b) CONFORMING AMENDMENTS.—

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

(2) Section 24(b)(3)(B) is amended by striking "and 25B" and inserting ", 25B, 25C, and 25D".

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

(4) Section 25B(g)(2) is amended by striking "section 23" and inserting "sections 23, 25C, and 25D".

(5) Section 26(a)(1) is amended by striking "and 25B" and inserting "25B, 25C, and 25D".

(6) Section 904(h) is amended by striking "and 25B" and inserting "25B, 25C, and 25D".

(7) Section 1400C(d) is amended by striking "and 25B" and inserting "25B, 25C, and 25D".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 302. CERTAIN BUSINESS ENERGY CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clause (ii) as clause (iv) and by striking clause (i) and inserting the following new clauses:

"(i) the credits determined under sections 40, 45H, and 45I,

"(ii) so much of the credit determined under section 46 as is attributable to section 48(a)(3)(A)(iii),

"(iii) for taxable years beginning after December 31, 2005, and before January 1, 2008, the credit determined under section 43, and".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendment made by subsection (a) shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2005.

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

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 1541, as amended (the "Enhanced Energy Infrastructure and Technology Tax Policy Act of 2005"), provides incentives to enhance energy infrastructure properties in the United States and to encourage the use of certain energy technologies, and for other purposes.

The bill provides net tax reductions of $4.065 billion over fiscal years 2005–2010.

B. BACKGROUND AND NEED FOR LEGISLATION

The provisions approved by the Committee provide incentives for taxpayers to enhance energy infrastructure properties in the United States and to encourage taxpayers to use certain energy technologies. The estimated revenue effects of the provisions comply with the most recent Congressional Budget Office revisions of budget projections.

C. LEGISLATIVE HISTORY

The Subcommittee on Oversight held hearings on March 5, 2001 on the impact of Federal tax laws on the cost and supply of energy. The Subcommittee on Select Revenue Measures held hearings on May 3, June 12, and June 13, 2001 on the effect of Federal tax laws on the production, supply, and conservation of energy. On July 24, 2001, the Committee on Ways and Means reported a bill, H.R. 2511, to the House of Representatives. H.R. 2511 included incentives for taxpayers to conserve energy, to convert to cleaner forms of energy, to enhance the reliability of domestic energy supplies, and to increase domestic supplies of energy. The House passed the bill, as part of H.R. 4, 240–189 on August 2, 2001. The Senate amended and passed H.R. 4 on April 25, 2002. A conference was convened, but not completed before the adjournment of the 107th Congress.

On April 9, 2003, the Committee on Ways and Means reported a bill, H.R. 1531, to the House of Representatives. H.R. 1531 included incentives for taxpayers to conserve energy, to convert to cleaner forms of energy, to enhance the reliability of domestic energy supplies, and to increase domestic supplies of energy. The

House passed the bill, as part of H.R. 6, 247–175 on April 11, 2003. The Senate amended and passed H.R. 6 on July 31, 2003. A conference was convened. The House passed the conference report to H.R. 6, 246–180, on November 18, 2003. The Senate failed to pass the conference report to H.R. 6 before the adjournment of the 108th Congress.

The Committee on Ways and Means marked up the provisions of the bill on April 13, 2005, and reported the provisions, as amended, on April 13, 2005, by a roll call vote, with a quorum present.

TITLE I—ENERGY INFRASTRUCTURE TAX INCENTIVES

A. Natural Gas Gathering Lines Treated as Seven-Year Property

(Sec. 101 of the bill and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56.[1] Revenue Procedure 87–56 includes two asset classes either of which could describe natural gas gathering lines owned by nonproducers of natural gas. Asset class 46.0, describing pipeline transportation, provides a class life of 22 years and a recovery period of 15 years. Asset class 13.2, describing assets used in the exploration for and production of petroleum and natural gas deposits, provides a class life of 14 years and a depreciation recovery period of seven years. The uncertainty regarding the appropriate recovery period of natural gas gathering lines has resulted in litigation between taxpayers and the IRS. In each of three recent cases, appellate courts have held that natural gas gathering lines owned by nonproducers fall within the scope of Asset class 13.2 (i.e., seven-year recovery period).[2] The appellate court in each case reversed a lower court holding that natural gas gathering lines owned by nonproducers fall within the scope of Asset class 46.0 (i.e., 15-year recovery period). The IRS has not yet indicated whether it acquiesces in the result in these three appellate decisions in cases arising in other circuits.

REASONS FOR CHANGE

The Committee has noted the controversies between taxpayers and the IRS regarding the appropriate recovery period of natural gas gathering lines and believes it is important to provide clarity and certainty. The Committee notes that unprocessed gas in gathering lines is potentially more corrosive than interstate pipeline quality gas. The Committee concludes the appropriate recovery period for natural gas gathering lines is seven years. The Committee also believes a 7-year recovery period, and the certainty provided

[1] 1987–2 C.B. 674 (as clarified and modified by Rev. Proc. 88–22, 1988–1 C.B. 785).

[2] *Clajon Gas Co. L.P.,* v. *Commissioner,* 354 F.3d 786 (8th Cir. 2004), rev'g 119 T.C. 197 (2002); *Saginaw Bay Pipeline Co.* v. *United States,* 338F.3d 600 (6th Cir. 2003), rev'g 88 A.F.T.R.2d 2001–6019 (E.D. Mich. 2001); *Duke Energy* v. *Commissioner,* 172 F.3d 1255 (10th Cir. 1999), rev'g 109 T.C. 416 (1997).

compared to present law, will foster investment in natural gas fields that will enhance the domestic supply of natural gas.

EXPLANATION OF PROVISION

The provision establishes a statutory seven-year recovery period and a class life of 14 years for natural gas gathering lines. In addition, no adjustment will be made to the allowable amount of depreciation with respect to this property for purposes of computing a taxpayer's alternative minimum taxable income. A natural gas gathering line is defined to include any pipe, equipment, and appurtenance that is (1) determined to be a gathering line by the Federal Energy Regulatory Commission, or (2) used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches (a) a gas processing plant, (b) an interconnection with an interstate transmission line, (c) an interconnection with an intrastate transmission line, or (d) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

EFFECTIVE DATE

The provision is effective for property placed in service after April 11, 2005. No inference is intended as to the proper treatment of natural gas gathering lines placed in service on or before April 11, 2005.

B. Natural Gas Distribution Lines Treated as Fifteen-Year Property

(Sec. 102 of the bill and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56.[3] Natural gas distribution pipelines are assigned a 20-year recovery period and a class life of 35 years.

REASONS FOR CHANGE

The Committee recognizes the importance of modernizing our aging energy infrastructure to meet the demands of the twenty-first century, and the Committee also recognizes that both short-term and long-term solutions are required to meet this challenge. The Committee understands that investment in our energy infrastructure has not kept pace with the nation's needs. In light of this, the Committee believes it is appropriate to reduce the recovery period for investment in certain energy infrastructure property to encourage investment in such property.

EXPLANATION OF PROVISION

The provision establishes a statutory 15-year recovery period and a class life of 35 years for natural gas distribution lines.

[3] 1987–2 C.B. 674 (as clarified and modified by Rev. Proc. 88–22, 1988–1 C.B. 785).

EFFECTIVE DATE

The provision is effective for property placed in service after April 11, 2005.

C. TRANSMISSION PROPERTY TREATED AS FIFTEEN-YEAR PROPERTY

(Sec. 103 of the bill and sec. 168 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56.[4] Assets used in the transmission and distribution of electricity for sale and related land improvements are assigned a 20-year recovery period and a class life of 30 years.

REASONS FOR CHANGE

The Committee recognizes the importance of modernizing our aging energy infrastructure to meet the demands of the twenty-first century, and the Committee also recognizes that both short-term and long-term solutions are required to meet this challenge. The Committee understands that investment in our electricity transmission infrastructure assets has not kept pace with the nation's needs. In light of this, the Committee believes it is appropriate to reduce the recovery period for investment in certain electricity transmission infrastructure property to encourage investment in such property.

EXPLANATION OF PROVISION

The provision establishes a statutory 15-year recovery period and a class life of 30 years for certain assets used in the transmission of electricity for sale and related land improvements. For purposes of the provision, section 1245 property used in the transmission at 69 or more kilovolts of electricity for sale, the original use of which commences with the taxpayer after April 11, 2005, will qualify for the new recovery period.

EFFECTIVE DATE

The provision is effective for property placed in service after April 11, 2005.

D. AMORTIZATION OF ATMOSPHERIC POLLUTION CONTROL FACILITIES

(Sec. 104 of the bill and sec. 169 of the Code)

PRESENT LAW

In general, a taxpayer may elect to recover the cost of any certified pollution control facility over a period of 60 months.[5] A certified pollution control facility is defined as a new, identifiable treatment facility which (1) is used in connection with a plant in

[4] 1987–2 C.B. 674 (as clarified and modified by Rev. Proc. 88–22, 1988–1 C.B. 785).

[5] Sec. 169. For purposes of computing alternative minimum taxable income, the depreciation deduction is determined using the straght-line method over the appliable regular tax recovery period.

operation before January 1, 1976, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes or heat; and (2) does not lead to a significant increase in output or capacity, a significant extension of useful life, a significant reduction in total operating costs for such plant or other property (or any unit thereof), or a significant alteration in the nature of a manufacturing production process or facility. Certification is required by appropriate State and Federal authorities that the facility complies with appropriate standards.

For a pollution control facility with a useful life greater than 15 years, only the portion of the basis attributable to the first 15 years is eligible to be amortized over a 60-month period.[6] In addition, a corporate taxpayer must reduce the amount of basis otherwise eligible for the 60-month recovery by 20 percent.[7] The amount of basis not eligible for 60-month amortization is depreciable under the regular tax rules for depreciation.

REASONS FOR CHANGE

The Committee is concerned about the effects of atmospheric pollution created by coal-fired electric generation plants and recognizes that the present-law election is not available for pollution control facilities used in connection with such a plant which commenced operation after December 31, 1975. The Committee notes that the Environmental Protection Agency recently has promulgated new, stricter emissions standards for coal-fired, electric generation plants. The Committee believes that the present-law incentive to install pollution control facilities should be available to taxpayers that install atmospheric pollution control equipment in all such plants, regardless of when they commenced operation.

EXPLANATION OF PROVISION

The provision expands the provision allowing a taxpayer to recover the cost of certain certified air pollution control facilities (but not water pollution control facilities) over 60 months by repealing the requirement that only certified pollution control facilities used in connection with a plant in operation before January 1, 1976 qualify. Under the provision, a certified air pollution control facility which used in connection with an electric generation plant which is primarily coal fired will be eligible for 60-month amortization regardless of whether the associated plant or other property was in operation prior to January 1, 1976. In the case a facility used in connection with a plant or other property not in operation before January 1, 1976, the facility must be property that either (i) the construction, reconstruction, or erection of which is completed by the taxpayer after April 11, 2005 (to the extent of the portion of the basis properly attributable to the construction, reconstruction, or erection after that date), or (ii) is acquired after April 11, 2005, if the original use of the property commences with the taxpayer after that date. The provision does not change the present-law

[6] The amounnt attributable to the first 15 years is equal to an amount which bears the same ration to the portion of the adjusted basis of the facility, which would be eligible for amortization but for the application of this rule, as 15 bears to the number of years of useful life of the facility.

[7] Sec. 291(a)(5).

rules relating to corporate taxpayers or to pollution control facilities with a useful life greater than 15 years, and the provision does not modify in any way the treatment of water pollution control facilities.

EFFECTIVE DATE

The provision is effective for air pollution control facilities placed in service after April 11, 2005.

E. Modification of Credit for Producing Fuel From a Non-Conventional Source

(Sec. 105 of the bill and sec. 29 and new sec. 45J of the Code)

PRESENT LAW

Certain fuels produced from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation)[8] per barrel or BTU oil barrel equivalent ("section 29 credit"). Qualified fuels must be produced within the United States.

Qualified fuels include:

1. oil produced from shale and tar sands;
2. gas produced from geopressured brine, Devonian shale, coal seams, tight formations, or biomass; and
3. liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

In general, the section 29 credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997.

The section 29 credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of non-conventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).

The section 29 credit may not exceed the excess of the regular tax liability over the tentative minimum tax. Unused section 29 credits may not be carried forward or carried back to other taxable years. However, to the extent the section 29 credit is disallowed because of the tentative minimum tax, the minimum tax credit allowable in future years is increased by the amount so disallowed.

Other business credits are included in the general business credit (sec. 38). Generally, the general business credit may not exceed the excess of the taxpayer's net income tax over the greater of the taxpayer's tentative minimum tax or 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000. General business credits in excess of this limitation may be carried back one year and forward up to 20 years. The section 29 credit is not part of the general business credit.

[8] The value of the credit in 2004 was $6.56 per barrel of oil equivalent produced, which is approximately $1.16 per thousand cubic feet of natural gas.

The section 29 credit includes definitional cross-references and a credit limitation relating to the Natural Gas Policy Act of 1978. The Natural Gas Policy Act of 1978 has been repealed.

REASONS FOR CHANGE

The Committee recognizes that the section 29 credit is not part of the general business credits and therefore no carryback or carryforward is available for the credit. The Committee believes that the carryback and carryforward rules should apply to the credit, and therefore believes it is appropriate to treat the credit as part of the general business credits.

EXPLANATION OF PROVISION

The provision makes the credit for producing fuel from a nonconventional source part of the general business credit. Thus, the credit for producing fuel from a non-conventional source will be subject to the limitations applicable to the general business credit. Any unused credits may be carried back one year and forward 20 years.

The provision also makes certain clerical changes in cross-references to the Natural Gas Policy Act of 1978, which has been repealed.

EFFECTIVE DATE

The provision applies to credits determined for taxable years ending after December 31, 2005.[9] The clerical changes are effective on the date of enactment.

F. Modification to Special Rules for Nuclear Decommissioning Costs

(Sec. 106 of the bill and sec. 468A of the Code)

PRESENT LAW

Overview

Special rules dealing with nuclear decommissioning reserve funds were enacted in the Deficit Reduction Act of 1984 ("1984 Act"), when tax issues regarding the time value of money were addressed generally. Under general tax accounting rules, a deduction for accrual basis taxpayers is deferred until there is economic performance for the item for which the deduction is claimed. However, the 1984 Act contains an exception under which a taxpayer responsible for nuclear powerplant decommissioning may elect to deduct contributions made to a qualified nuclear decommissioning fund for future decommissioning costs. Taxpayers who do not elect this provision are subject to general tax accounting rules.

Qualified nuclear decommissioning fund

A qualified nuclear decommissioning fund (a "qualified fund") is a segregated fund established by a taxpayer that is used exclusively for the payment of decommissioning costs, taxes on fund income, management costs of the fund, and for making investments.

[9] The credit may not be carried back to a taxable year ending before January 1, 2006 (sec. 39(d)).

The income of the fund is taxed at a reduced rate of 20 percent for taxable years beginning after December 31, 1995.[10]

Contributions to a qualified fund are deductible in the year made to the extent that these amounts were collected as part of the cost of service to ratepayers (the "cost of service requirement").[11] Funds withdrawn by the taxpayer to pay for decommissioning costs are included in the taxpayer's income, but the taxpayer also is entitled to a deduction for decommissioning costs as economic performance for such costs occurs.

Accumulations in a qualified fund are limited to the amount required to fund decommissioning costs of a nuclear powerplant for the period during which the qualified fund is in existence (generally post-1984 decommissioning costs of a nuclear powerplant). For this purpose, decommissioning costs are considered to accrue ratably over a nuclear powerplant's estimated useful life. In order to prevent accumulations of funds over the remaining life of a nuclear powerplant in excess of those required to pay future decommissioning costs of such nuclear powerplant and to ensure that contributions to a qualified fund are not deducted more rapidly than level funding (taking into account an appropriate discount rate), taxpayers must obtain a ruling from the IRS to establish the maximum annual contribution that may be made to a qualified fund (the "ruling amount"). In certain instances (e.g., change in estimates), a taxpayer is required to obtain a new ruling amount to reflect updated information.

A qualified fund may be transferred in connection with the sale, exchange or other transfer of the nuclear powerplant to which it relates. If the transferee is a regulated public utility and meets certain other requirements, the transfer will be treated as a nontaxable transaction. No gain or loss will be recognized on the transfer of the qualified fund and the transferee will take the transferor's basis in the fund.[12] The transferee is required to obtain a new ruling amount from the IRS or accept a discretionary determination by the IRS.[13]

NonQualified nuclear decommissioning funds

Federal and State regulators may require utilities to set aside funds for nuclear decommissioning costs in excess of the amount allowed as a deductible contribution to a qualified fund. In addition, taxpayers may have set aside funds prior to the effective date of the qualified fund rules.[14] The treatment of amounts set aside for decommissioning costs prior to 1984 varies. Some taxpayers may have received no tax benefit while others may have deducted such amounts or excluded such amounts from income. Since 1984, taxpayers have been required to include in gross income customer charges for decommissioning costs (sec. 88), and a deduction has

[10] As originally enacted in 1984, a qualified fund paid tax on its earnings at the top corporate rate and, as a result, there was no present-value tax benefit of making deductible contributions to a qualified fund. Also, as originally enacted, the funds in the trust could be invested only in certain low risk investments. Subsequent amendments to the provision have reduced the rate of tax on a qualified fund to 20 percent and removed the restrictions on the types of permitted investments that a qualified fund can make.

[11] Taxpayers are required to include in gross income customer charges for decommissioning costs (sec. 88).

[12] Treas. reg. sec. 1.468A–6.

[13] Treas. reg. sec. 1.468A–6(f).

[14] These funds are generally referred to as "nonqualified funds."

not been allowed for amounts set aside to pay for decommissioning costs except through the use of a qualified fund. Income earned in a nonqualified fund is taxable to the fund's owner as it is earned.

REASONS FOR CHANGE

The Committee recognizes the national importance of reserving funds to pay for decommissioning costs and the need for appropriate incentives to ensure that adequate funds are available for such costs. The Committee believes that it is appropriate to permit all decommissioning costs associated with a nuclear powerplant to be funded through a qualified fund. In addition, the Committee does not believe a utility should be denied the opportunity to contribute to a qualified fund simply because it operates in a deregulated environment.

EXPLANATION OF PROVISION

Repeal of cost of service requirement

The provision repeals the cost of service requirement for deductible contributions to a nuclear decommissioning fund. Thus, all taxpayers, including unregulated taxpayers, are allowed a deduction for amounts contributed to a qualified fund.

Permit contributions to a qualified fund for pre-1984 decommissioning costs

The provision also repeals the limitation that a qualified fund only accumulate an amount sufficient to pay for a nuclear powerplant's decommissioning costs incurred during the period that the qualified fund is in existence (generally post-1984 decommissioning costs). Thus, any taxpayer is permitted to accumulate an amount sufficient to cover the present value of 100 percent of a nuclear powerplant's estimated decommissioning costs in a qualified fund. The provision does not change the requirement that contributions to a qualified fund not be deducted more rapidly than level funding.

Exception to ruling amount for certain decommissioning costs

The provision permits a taxpayer to make contributions to a qualified fund in excess of the ruling amount in one circumstance. Specifically, a taxpayer is permitted to contribute up to the present value of total nuclear decommissioning costs with respect to a nuclear powerplant previously excluded under section 468A(d)(2)(A).[15] It is anticipated that an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer's most recent ruling amount. Any amount transferred to the qualified fund under this special rule is allowed as a deduction over the remaining useful life of the nuclear powerplant.[16] If a

[15] For example, if $100 is the present value of the total decommissioning costs of a nuclear powerplant, and if under present law the qualified fund is only permitted to accumulate $75 of decommissioning costs over such plant's estimated useful life (because the qualified fund was not in existence during 25 percent of the estimated useful life of the nuclear powerplant), a taxpayer could contribute $25 to the qualified fund under this component of the provision.

[16] A taxpayer recognizes no gain or loss on the contribution of property to a qualified fund under this special rule. The qualified fund will take a transferred (carryover) basis in such property. Correspondingly, a taxpayer's deduction (over the estimated life of the nuclear powerplant)

qualified fund that has received amounts under this rule is transferred to another person, the transferor will be permitted a deduction for any remaining deductible amounts at the time of transfer.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2005.

G. Exempt Certain Prepayments for Natural Gas from Tax-Exempt Bond Arbitrage Rules

(Sec. 107 of the bill and sec. 148 of the Code)

PRESENT LAW

Arbitrage restrictions

Interest on bonds issued by States or local governments to finance activities carried out or paid for by those entities generally is exempt from income tax. Restrictions are imposed on the ability of States or local governments to invest the proceeds of these bonds for profit (the "arbitrage restrictions").[17] One such restriction limits the use of bond proceeds to acquire "investment-type property." The term investment-type property includes the acquisition of property in a transaction involving a prepayment if a principal purpose of the prepayment is to receive an investment return from the time the prepayment is made until the time payment otherwise would be made. A prepayment can produce prohibited arbitrage profits when the discount received for prepaying the costs exceeds the yield on the tax-exempt bonds. In general, prohibited prepayments include all prepayments that are not customary in an industry by both beneficiaries of tax-exempt bonds and other persons using taxable financing for the same transaction.

On August 4, 2003, the Treasury Department issued final regulations deeming to be customary, and not in violation of the arbitrage rules, certain prepayments for natural gas and electricity.[18] Generally, a qualified prepayment under the regulations requires that 90 percent of the natural gas or electricity purchased with the prepayment be used for a qualifying use. Generally, natural gas is used for a qualifying use if it is to be (1) furnished to retail gas customers of the issuing municipal utility who are located in the natural gas service area of the issuing municipal utility, however, gas used to produce electricity for sale is not included under this provision (2) used by the issuing municipal utility to produce electricity that will be furnished to retail electric service area customers of the issuing utility, (3) used by the issuing municipal utility to produce electricity that will be sold to a utility owned by a governmental person and furnished to the service area retail electric customers of the purchaser, (4) sold to a utility that is owned by a governmental person if the requirements of (1), (2) or (3) are satisfied by the purchasing utility (treating the purchaser as the issuing utility) or (5) used to fuel the pipeline transportation of the prepaid gas supply. Electricity is used for a qualifying use if it is

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is to be based on the adjusted tax basis of the property contributed rather than the fair market value of such property.

[17] Sec. 148.

[18] Treas. Reg. sec. 1.148–1(e)(2)(iii).

to be (1) furnished to retail service area electric customers of the issuing municipal utility or (2) sold to a municipal utility and furnished to retail electric customers of the purchaser who are located in the electricity service area of the purchaser.

Private activity bond tests

State and local bonds may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or the debt is repaid with governmental funds. Private activity bonds are bonds where the State or local government serves as a conduit providing financing to private businesses or individuals. A bond will be treated as a private activity bond if more than five percent of the proceeds of the bond issue, or, if less, more than $5,000,000 is used (directly or indirectly) to make or finance loans to persons other than governmental units (the "private loan financing test") or if it meets the requirements of a two-part private business test.[19]

The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain purposes permitted by the Code. Section 141(d) of the Code provides that the term "private activity bond" includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) for the acquisition by a governmental unit of nongovernmental output property exceeds the lesser of five percent of such proceeds or $5 million. "Nongovernmental output property" generally means any property (or interest therein) which before such acquisition was used (or held for use) by a person other than a governmental unit in connection with an output facility (other than a facility for the furnishing of water). An exception applies to output property which is to be used in connection with an output facility 95 percent or more of the output of which will be consumed in (1) a qualified service area of the governmental unit acquiring the property, or (2) a qualified annexed area of such unit.

REASONS FOR CHANGE

The Committee determined that it was appropriate to complement the Treasury regulations with a safe harbor that provides certainty on the date of issuance that prepayments for natural gas within the safe harbor will not violate the arbitrage rules. This provision will ensure adequate supplies of natural gas at predictable prices for natural gas utility customers without sacrificing to a great degree the appropriate present-law limitations regarding tax-exempt bond issuance for the purchase of investment property. The Committee believes that this proposal strikes an appropriate balance between these two competing policies. The creation of this safe harbor is not intended to limit the Secretary's regulatory au-

[19] Sec. 141(b) and (c). Under the private business test, a bond is a private activity bond if it is part of an issue in which: (1) more than 10 percent of the proceeds of the issue (including use of the bond-financed property) are to be used in the trade or business of any person other than a governmental unit ("private business use"); and (2) more than 10 percent of the payment of principal or interest on the issue is, directly or indirectly, (a) secured by property used or to be used for a private business use or (b) to be derived from payments in respect of property, or borrowed money, used or to be used for a private business use ("private payment test").

thority to identify other situations in which prepayments do not give rise to investment type property.

EXPLANATION OF PROVISION

In general

The provision creates a safe harbor exception to the general rule that tax-exempt bond-financed prepayments violate the arbitrage restrictions. The term "investment type property" does not include a prepayment under a qualified natural gas supply contract. The provision also provides that such prepayments are not treated as private loans for purposes of the private business tests.

Under the provision, a prepayment financed with tax-exempt bond proceeds for the purpose of obtaining a supply of natural gas for service area customers of a governmental utility is not treated as the acquisition of investment-type property. A contract is a qualified natural gas supply contract if the volume of natural gas secured for any year covered by the prepayment does not exceed the sum of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area of the utility ("retail natural gas consumption") during the testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. The testing period is the 5-calendar-year period immediately preceding the calendar year in which the bonds are issued. A retail customer is one who does not purchase natural gas for resale. Natural gas used to generate electricity by a utility owned by a governmental unit is counted as retail natural gas consumption if the electricity was sold to retail customers within the service area of the governmental electric utility.

Adjustments

The volume of gas permitted by the general rule is reduced by natural gas otherwise available on the date of issuance. Specifically, the amount of natural gas permitted to be acquired under a qualified natural gas supply contract for any period is to be reduced by the applicable share of natural gas held by the utility on the date of issuance of the bonds and natural gas that the utility has a right to acquire for the prepayment period (determined as of the date of issuance). For purposes of the preceding sentence, "applicable share" means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

For purposes of the safe harbor, if after the close of the testing period and before the issue date of the bonds (1) the government utility enters into a contract to supply natural gas (other than for resale) for a commercial person for use at a property within the service area of such utility and (2) the gas consumption for such property was not included in the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period, then the amount of gas permitted to be purchased may be increased to accommodate the contract.

The calculation of average annual retail natural gas consumption for purposes of the safe harbor, however, is not to exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

Intentional acts

The safe harbor does not apply if the utility engages in intentional acts to render (1) the volume of natural gas covered by the prepayment to be in excess of that needed for retail natural gas consumption, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility.

Definition of service area

Service area is defined as (1) any area throughout which the governmental utility provided (at all times during the testing period) in the case of a natural gas utility, natural gas transmission or distribution services, or in the case of an electric utility, electricity distribution services; (2) limited areas contiguous to such areas, and (3) any area recognized as the service area of the governmental utility under State or Federal law. Contiguous areas are limited to any area within a county contiguous to the area described in (1) in which retail customers of the utility are located if such area is not also served by another utility providing the same service.

Ruling request for higher prepayment amounts

Upon written request, the Secretary may allow an issuer to prepay for an amount of gas greater than that allowed by the safe harbor based on objective evidence of growth in gas consumption or population that demonstrates that the amount permitted by the exception is insufficient.

Nongovernmental output property restrictions

A qualified natural gas supply contract as defined in the provision is not nongovernmental output property for purposes of subsection (d) of section 141. Subsection (d) of section 141 does not apply to prepayment contracts for natural gas or electricity that either under the Treasury regulations or statutory safe harbor are not investment-type property for purposes of the arbitrage rules under section 148. No inference is intended regarding the application of subsection 141(d) to prepayment contracts not covered by the statutory safe harbor or Treasury regulations.

Application to joint action agencies

In a number of States, joint action agencies serve as purchasing agents for their member municipal gas utilities. The provision is intended to allow municipal utilities in a State to participate in such buying arrangements as established under State law, subject to the same limitations that would apply if an individual utility were to purchase gas directly. When acting on behalf of its municipal gas utility members, the total amount of gas that can be purchased by a joint action agency under the provision's exception to the arbitrage rules is the aggregate of what each such member could purchase for itself on a direct basis. Thus, with respect to

qualified natural gas supply contracts entered into by joint action agencies for or on behalf of one or more member municipal utilities, the requirements of the safe harbor are tested at the individual municipal utility level based on the amount of gas that would be allocated to such member during any year covered by the contract.

EFFECTIVE DATE

The provision is effective for obligations issued after date of enactment.

H. Determination of Small Refiner Exception to Oil Depletion Deduction

(Sec. 108 of the bill and sec. 613A of the Code)

PRESENT LAW

Present law classifies oil and gas producers as independent producers or integrated companies. The Code provides special tax rules for operations by independent producers. One such rule allows independent producers to claim percentage depletion deductions rather than deducting the costs of their asset, a producing well, based on actual production from the well (i.e., cost depletion).

A producer is an independent producer only if its refining and retail operations are relatively small. For example, an independent producer may not have refining operations the runs from which exceed 50,000 barrels on any day in the taxable year during which independent producer status is claimed.[20] A refinery run is the volume of inputs of crude oil (excluding any product derived from oil) into the refining stream.[21]

REASONS FOR CHANGE

The Committee notes that technological advances have permitted a number of small refineries to refine more petroleum without expanding their facilities. The Committee believes that the goal of present law, to identify producers without significant refining capacity, can be achieved while permitting more flexibility to refinery operations.

EXPLANATION OF PROVISION

The provision increases the current 50,000-barrel-per-day limitation to 75,000. In addition, the provision changes the refinery limitation on claiming independent producer status from a limit based on actual daily production to a limit based on average daily production for the taxable year. Accordingly, the average daily refinery runs for the taxable year may not exceed 75,000 barrels. For this purpose, the taxpayer calculates average daily refinery runs by dividing total refinery runs for the taxable year by the total number of days in the taxable year.

EFFECTIVE DATE

The provision is effective for taxable years ending after date of enactment.

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[20] Sec. 613A(d)(4).
[21] Treas. Reg. sec. 1.613A–7(s).

TITLE II—MISCELLANEOUS ENERGY TAX INCENTIVES

A. Residential Solar Hot Water Heating, Photovoltaic, and Fuel Cell Credit

(Sec. 201 of the bill and new sec. 25C of the Code)

PRESENT LAW

There is no present-law personal tax credit for residential solar hot water, photovoltaic, or fuel cell property.

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

REASONS FOR CHANGE

The Committee recognizes that residential energy use represents a large share of national energy consumption, and accordingly believes that measures to encourage alternative energy sources for residential use have the potential to substantially reduce national reliance on traditional energy sources. The Committee believes that a tax credit for investments in solar energy sources and fuel cell power plants will help to achieve that goal. Furthermore, the Committee believes that the on-site generation of electricity will reduce the burden on the United States' electricity grid and on natural gas pipelines.

EXPLANATION OF PROVISION

The provision provides a personal tax credit for the purchase of qualified photovoltaic property and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 15 percent of qualified investment up to a maximum credit of $2,000 for solar water heating property and $2,000 for rooftop photovoltaic property. The provision also provides a 15-percent personal tax credit for the purchase of qualified fuel cell power plants. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The credit is nonrefundable.[22] The taxpayer's basis in the property is reduced by the amount of the credit.

Qualifying solar water heating property is property that heats water for use in a dwelling unit if at least half of the energy used by such property for such purpose is derived from the sun. Qualified photovoltaic property is property that uses solar energy to generate electricity for use in a dwelling unit. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only generation efficiency of greater than 30 percent.

[22] Sec. 301 of the bill allows the credit to offset both the regular tax and the alternative minimum tax.

To qualify for the credit, the property must be installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer. If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusines purposes shall be taken into account. Certain equipment safety requirements need to be met to qualify for the credit. Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations.

EFFECTIVE DATE

The credit applies to expenditures made after the date of enactment in taxable years ending before January 1, 2008.

B. Business Fuel Cell Investment Credit

(Sec. 202 of the bill and sec. 48 of the Code)

PRESENT LAW

A 10-percent business energy investment tax credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy investment tax credit is a component of the general business credit. The general business credit generally may not exceed the excess of the taxpayer's net income tax over the greater of (1) the tentative minimum tax or (2) 25 percent of net regular tax liability in excess of $25,000. A general business credit in excess of the tax limitation generally may be carried back one year and carried forward up to 20 years.

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for stationary fuel cell power plant property.

REASONS FOR CHANGE

The Committee believes that investments in qualified fuel cell power plants represent a promising means to produce electricity through non-polluting means and from nonconventional energy sources. Furthermore, the on-site generation of electricity provided by fuel cell power plants will reduce reliance on the United States' electricity grid. The Committee believes that providing a tax credit for investment in qualified fuel cell power plants will encourage investments in such systems.

EXPLANATION OF PROVISION

The provision provides a 15-percent credit for the purchase of qualified fuel cell power plants for businesses. The credit is part of the business energy investment tax credit.[23] A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only generation efficiency of greater than 30 percent. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The taxpayer's basis in the property is reduced by the amount of the credit claimed.

EFFECTIVE DATE

The provision applies to property placed in service after April 11, 2005, and before January 1, 2008, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

C. BTU-BASED RATE FOR DIESEL-WATER FUEL EMULSION

(Sec. 203 of the bill and secs. 4081 and 6427 of the Code)

PRESENT LAW

A 24.3-cents-per-gallon excise tax is imposed on diesel fuel to finance the Highway Trust Fund.[24] Gasoline and most special motor fuels are subject to tax at 18.3 cents per gallon for the Trust Fund.[25]

The tax rate for certain special motor fuels is determined, on an energy equivalent basis, as follows:[26]

Liquefied petroleum gas (propane)	13.6 cents per gallon.
Liquefied natural gas	11.9 cents per gallon.
Methanol derived from natural gas	9.15 cents per gallon.
Compressed natural gas	48.54 cents per MCF.

No special tax rate is provided for diesel fuel blended with water to form a diesel-water fuel emulsion.

REASONS FOR CHANGE

Because diesel-water emulsion fuels have fewer British thermal units ("Btu") per gallon, larger quantities must be purchased to travel the same number of miles as regular diesel fuel. A Btu-based tax rate better correlates highway use and tax paid. The Committee further understands that the diesel-water emulsion fuel may reduce emissions of air pollutants relative to regular diesel fuel and believes that the Btu-based rate, by removing a tax disadvantage to use of the fuel, will be beneficial to the environment.

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[23] Section 302 of the bill provides that the tentative minimum tax is treated as zero for purposes of applying the tax limitation to the portion of the investment tax credit attributable to the credit for fuels cells.

[24] Sec. 4081(a)(2)(A)(iii).

[25] Secs. 4081(a)(2)(A)(i) and 4041(a)(2)(B)(i).

[26] See sec. 4041(a)(2)(B)(ii) and (iii), sec. 4041(a)(3) and sec. 4041(m)(1)(A).

EXPLANATION OF PROVISION

A special tax rate of 19.7 cents per gallon is provided for diesel fuel blended with water into a diesel-water fuel emulsion to reflect the reduced Btu content per gallon resulting from the water. Emulsion fuels eligible for the special rate must consist of not more than 83.1 percent diesel (and other minor chemical additives to enhance combustion) and at least 16.9 percent water. The emulsion addition must be registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003). A refund of the difference between the regular rate (24.3 cents per gallon) and the incentive rate (19.7 cents per gallon) is available to the extent tax-paid diesel is used to produce a qualifying emulsion diesel fuel. Anyone who separates the diesel fuel from the diesel-water fuel emulsion on which a reduced rate of tax was imposed is treated as a refiner of the fuel and is liable for the difference between the amount of tax on the latest removal of the separated fuel and the amount of tax that was imposed upon the pre-mixture removal.

EFFECTIVE DATE

The provision is effective on January 1, 2006.

D. Amortization of Delay Rental Payments

(Sec. 204 of the bill and new sec. 167 of the Code)

PRESENT LAW

Presently law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deducted as they are incurred (sec. 263). Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for "delay rental payments" as a condition of their extension. The Internal Revenue Service has taken the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.

REASONS FOR CHANGE

The Committee believes that substantial simplification for taxpayers and significant gains in taxpayer compliance and reductions in administrative cost can be attained by establishing a clear rule that all delay rental payments may be amortized over two years, including the basis of abandoned property.

EXPLANATION OF PROVISION

The provision allows delay rental payments incurred in connection with the development of oil or gas within the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

EFFECTIVE DATE

The provision applies to amounts paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date delay rental payments.

E. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES

(Sec. 205 of the bill and new sec. 167 of the Code)

PRESENT LAW

In general

Geological and geophysical expenditures ("G&G costs") are costs incurred by a taxpayer for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties by taxpayers exploring for minerals. A key issue with respect to the tax treatment of such expenditures is whether or not they are capital in nature. Capital expenditures are not currently deductible as ordinary and necessary business expenses, but are allocated to the cost of the property.[27]

Courts have held that G&G costs are capital, and therefore are allocable to the cost of the property[28] acquired or retained.[29] The costs attributable to such exploration are allocable to the cost of the property acquired or retained. As described further below, IRS administrative rulings have provided further guidance regarding the definition and proper tax treatment of G&G costs.

Revenue Ruling 77–188

In Revenue Ruling 77–188[30] (hereinafter referred to as the "1977 ruling"), the IRS provided guidance regarding the proper tax treatment of G&G costs. The ruling describes a typical geological and geophysical exploration program as containing the following elements:

• It is customary in the search for mineral producing properties for a taxpayer to conduct an exploration program in one or more identifiable project areas. Each project area encompasses a territory that the taxpayer determines can be explored advantageously in a single integrated operation. This determination is made after analyzing certain variables such as (1) the size and topography of the project area to be explored, (2) the existing information available with respect to the project area and nearby areas, and (3) the quantity of equipment, the number of personnel, and the amount

[27] Under section 263, capital expenditures are defined generally as any amount paid for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. Treasury regulations define capital expenditures to include amounts paid or incurred (1) to add to the value, or substantially prolong the useful life, of property owned by the taxpayer or (2) to adapt property to a new or different use. Treas. Reg. sec. 1.263(a)–1(b).

[28] "Property" means an interest in a property as defined in section 614 of the Code, and includes an economic interest in a tract or parcel of land notwithstanding that a mineral deposit has not been established or proved at the time the costs are incurred.

[29] See, e.g., *Schermerhorn Oil Corporation* v. *Commissioner*, 46 B.T.A. 151 (1942). By contrast, section 617 of the Code permits a taxpayer to elect to deduct certain expenditures incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (but not oil and gas). These deductions are subject to recapture if the mine with respect to which the expenditures were incurred reaches the producing stage.

[30] 1977–1 C.B. 76.

of money available to conduct a reasonable exploration program over the project area.

• The taxpayer selects a specific project area from which geological and geophysical data are desired and conducts a reconnaissance-type survey utilizing various geological and geophysical exploration techniques. These techniques are designed to yield data that will afford a basis for identifying specific geological features with sufficient mineral potential to merit further exploration.

• Each separable, noncontiguous portion of the original project area in which such a specific geological feature is identified is a separate "area of interest." The original project area is subdivided into as many small projects as there are areas of interest located and identified within the original project area. If the circumstances permit a detailed exploratory survey to be conducted without an initial reconnaissance-type survey, the project area and the area of interest will be coextensive.

• The taxpayer seeks to further define the geological features identified by the prior reconnaissance-type surveys by additional, more detailed, exploratory surveys conducted with respect to each area of interest. For this purpose, the taxpayer engages in more intensive geological and geophysical exploration employing methods that are designed to yield sufficiently accurate sub-surface data to afford a basis for a decision to acquire or retain properties within or adjacent to a particular area of interest or to abandon the entire area of interest as unworthy of development by mine or well.

The 1977 ruling provides that if, on the basis of data obtained from the preliminary geological and geophysical exploration operations, only one area of interest is located and identified within the original project area, then the entire expenditure for those exploratory operations is to be allocated to that one area of interest and thus capitalized into the depletable basis of that area of interest. On the other hand, if two or more areas of interest are located and identified within the original project area, the entire expenditure for the exploratory operations is to be allocated equally among the various areas of interest.

If no areas of interest are located and identified by the taxpayer within the original project area, then the 1977 ruling states that the entire amount of the G&G costs related to the exploration is deductible as a loss under section 165. The loss is claimed in the taxable year in which that particular project area is abandoned as a potential source of mineral production.

A taxpayer may acquire or retain a property within or adjacent to an area of interest, based on data obtained from a detailed survey that does not relate exclusively to any discrete property within a particular area of interest. Generally, under the 1977 ruling, the taxpayer allocates the entire amount of G&G costs to the acquired or retained property as a capital cost under section 263(a). If more than one property is acquired, it is proper to determine the amount of the G&G costs allocable to each such property by allocating the entire amount of the costs among the properties on the basis of comparative acreage.

If, however, no property is acquired or retained within or adjacent to that area of interest, the entire amount of the G&G costs allocable to the area of interest is deductible as a loss under section

165 for the taxable year in which such area of interest is abandoned as a potential source of mineral production.

In 1983, the IRS issued Revenue Ruling 83–105,[31] which elaborates on the positions set forth in the 1977 ruling by setting forth seven factual situations and applying the principles of the 1977 ruling to those situations. In addition, Revenue Ruling 83–105 explains what constitutes "abandonment as a potential source of mineral production."

REASONS FOR CHANGE

The Committee believes that substantial simplification for taxpayers, significant gains in taxpayer compliance, and reductions in administrative cost can be obtained by establishing a clear rule that all geological and geophysical costs may be amortized over two years, including the basis of abandoned property.

The Committee recognizes that, on average, a two-year amortization period accelerates recovery of geological and geophysical expenses. The Committee believes that more rapid recovery of such expenses will foster increased exploration for new sources of supply.

EXPLANATION OF PROVISION

The provision allows geological and geophysical amounts incurred in connection with oil and gas exploration in the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

EFFECTIVE DATE

The provision is effective for geological and geophysical costs paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date geological and geophysical costs.

F. Advanced Lean-Burn Motor Vehicle Credit

(Sec. 206 of the bill and new sec. 30B of the Code)

PRESENT LAW

Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service (sec. 179A). Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether).[32] The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehi-

[31] 1983–2 C.B. 51.

[32] A hybrid-electric vehicle may qualify as a clean-fuel vehicle under present law.

cle. Qualified electric vehicles do not qualify for the clean-fuel vehicle deduction. The deduction is reduced to 25 percent of the otherwise allowable deduction in 2006 and is unavailable for purchases after December 31, 2006.

REASONS FOR CHANGE

The Committee believes that automobile transportation in the United States in the 21st century can, and should, be less polluting of the air and more fuel efficient. The Committee recognizes that various technological solutions may lead to this result. The Committee observes that consumer demand is increasing for those hybrid motor vehicles already available in the marketplace. The Committee believes that tax benefits to lower the cost of certain other new automotive technology alternatives can help lower consumer resistance to these technologies and speed the nation's advancement down the highway to cleaner, more efficient, automobiles. The Committee observes that certain diesel technologies offering fuel and environmental benefits are already available in Europe and believes it is important for this technology to be developed for the North American marketplace.

EXPLANATION OF PROVISION

The provision provides a credit for each new qualified advanced lean-burn technology motor vehicle placed in service by the taxpayer during the taxable year. The amount of the credit for any vehicle is the sum of an amount for fuel efficiency and an amount for conservation. The amount for fuel efficiency is based on a comparison of the fuel efficiency of the vehicle compared to the Environmental Protection Agency's 2000 model year city fuel economy for a vehicle in the same inertia weight class. The amount for conservation is based on the qualifying vehicle's estimated lifetime fuel savings compared to the same 2000 model year standard.

Table 1, below, shows the credit amount for fuel efficiency of a qualified advanced leanburn technology motor vehicle.

TABLE 1.—FUEL EFFICIENCY CREDIT AMOUNT FOR QUALIFIED ADVANCED LEAN-BURN TECHNOLOGY MOTOR VEHICLES

[Percent of base fuel economy]

Credit Amount	If fuel economy of the vehicle is:	
	At least	But less than
$500	125	150
$1,000	150	175
$1,500	175	200
$2,000	200	225
$2,500	225	250
$3,000	250	

The credit amount for conservation of a qualified advanced lean burn technology vehicle is computed as follows. The vehicle is assumed to be driven 120,000 miles over its life. The 120,000 miles of lifetime mileage is divided by the fuel economy rating of the vehicle. The 120,000 miles of lifetime mileage also is divided by the 2000 model year city economy for a vehicle in the same inertia

weight class. The difference is the lifetime fuel savings. If the vehicle achieves a lifetime motor fuel savings between 1,500 and 2,500 gallons of fuel, the credit amount for the vehicle is $250. If the vehicle achieves a lifetime fuel savings of at least 2,500 gallons of motor fuel, the credit amount is $500.

The base fuel economy is the 2000 model year city fuel economy for vehicles by inertia weight class by vehicle type. The "vehicle inertia weight class" is that defined in regulations prescribed by the Environmental Protection Agency for purposes of Title II of the Clean Air Act. Table 2, below, shows the 2000 model year city fuel economy for vehicles by type and by inertia weight class.

TABLE 2.—2000 MODEL YEAR CITY FUEL ECONOMY

Vehicle inertia weight class (pounds)	Passenger automobile (miles per gallon)	Light Truck (miles per gallon)
1,500	43.7	37.6
1,750	43.7	37.6
2,000	38.3	33.7
2,250	34.1	30.6
2,500	30.7	28.0
2,750	27.9	25.9
3,000	25.6	24.1
3,500	22.0	21.3
4,000	19.3	19.0
4,500	17.2	17.3
5,000	15.5	15.8
5,500	14.1	14.6
6,000	12.9	13.6
6,500	11.9	12.8
7,000	11.1	12.0
8,500	11.1	12.0

A qualifying advanced lean-burn technology motor vehicle means a motor vehicle the original use of which commences with the taxpayer, powered by an internal combustion engine that is designed to operate primarily using more air than is necessary for complete combustion of the fuel and incorporates direct injection, that uses only diesel fuel (as defined in section 4083(a)(3)), has sufficient fuel economy to qualify for the credit, and meets the Environmental Protection Agency's Tier II bin 8 emissions standards. In addition, in order to qualify for a credit, a vehicle must be in compliance with the applicable provisions of the Clean Air Act and the motor vehicle safety provisions.

In general, the credit is allowed to the vehicle owner, including the lessor of a vehicle subject to a lease. If the use of the vehicle is described in paragraph (3) or (4) of section 50(b) (relating to use by tax-exempt, governments and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit so long the seller clearly discloses to the user in a document the amount that is allowable as a credit. A vehicle must be used predominantly in the United States to qualify for the credit.

The provision permits the credit to offset both the regular tax and the alternative minimum tax. Credits in excess of this limitation may be carried forward for up to 20 years; credits may not be carried back to earlier years.

EFFECTIVE DATE

The provision is effective for property placed in service after the date of enactment and before January 1, 2008.

G. Energy Efficient Improvements to Existing Homes

(Sec. 207 of the bill and new sec. 25D of the Code)

PRESENT LAW

A taxpayer may exclude income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present law credit for energy efficiency improvements to existing homes.

REASONS FOR CHANGE

The Committee recognizes that residential energy use for heating and cooling represents a large share of national energy consumption, and accordingly believes that measures to reduce heating and cooling energy requirements have the potential to substantially reduce national energy consumption. The Committee further recognizes that many existing homes are inadequately insulated. Accordingly, the Committee believes that a tax credit for certain energy-efficiency improvements related to a home's envelope (exterior windows (including skylights) and doors, insulation, and certain roofing systems) will encourage homeowners to improve the insulation of their homes, which in turn will reduce national energy consumption.

EXPLANATION OF PROVISION

The provision provides a 20-percent credit for the purchase of qualified energy efficiency improvements to existing homes. The maximum credit for a taxpayer with respect to the same dwelling for all taxable years is $2,000. A qualified energy efficiency improvement is any energy efficiency building envelope component that meets or exceeds the prescriptive criteria for such a component established by the 2000 International Energy Conservation Code as supplemented and as in effect on the date of enactment (or, in the case of metal roofs with appropriate pigmented coatings, meets the Energy Star program requirements), and (1) that is installed in or on a dwelling located in the United States; (2) owned and used by the taxpayer as the taxpayer's principal residence; (3) the original use of which commences with the taxpayer; and (4) such component reasonably can be expected to remain in use for at least five years. The credit is nonrefundable.[33]

Building envelope components are: (1) insulation materials or systems which are specifically and primarily designed to reduce the heat loss or gain for a dwelling; (2) exterior windows (including skylights) and doors; and (3) metal roofs with appropriate pig-

[33] Sec. 301 of the bill allows the credit to offset both the regular tax and the alternative minimum tax.

mented coatings which are specifically and primarily designed to reduce the heat loss or gain for a dwelling.

The taxpayer's basis in the property is reduced by the amount of the credit. Special rules apply in the case of condominiums and tenant-stockholders in cooperative housing corporations.

In the case of expenditures that exceed $1,000, certain certification requirements must be met in order to qualify for the credit.

EFFECTIVE DATE

The provision is effective for qualified energy efficiency improvements installed after the date of enactment and before January 1, 2008.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

A. New Nonrefundable Personal Credits Allowed Against Regular and Minimum Taxes

(Sec. 301 of the bill and sec. 26 of the Code)

PRESENT LAW

For taxable years beginning before 2006, the nonrefundable personal credits are allowed to the extent of the full amount of the individual's regular tax and alternative minimum tax.

For taxable years beginning after 2005, the nonrefundable personal credits (other than the adoption credit, child credit and the savers' credit) are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax (determined without regard to the minimum tax foreign tax credit). The adoption credit, child credit, and IRA credit are allowed to the full extent of the individual's regular tax and alternative minimum tax.

The tentative minimum tax for an individual is an amount equal to specified rates of tax imposed on the individual's taxable excess (i.e., the excess of the alternative minimum taxable income over an exemption amount that phases out).

REASONS FOR CHANGE

The Committee believes that the incentive effects of the personal energy credits should be available to all individual taxpayers, regardless of their alternative minimum tax status. Accordingly, the bill provides that the personal energy credits can be utilized by offsetting both the regular tax and the alternative minimum tax.

EXPLANATION OF PROVISION

The provision allows the personal credits added by the bill for residential energy efficient property and energy efficient improvements to existing homes to offset both the regular tax and the alternative minimum tax.

EFFECTIVE DATE

The provision applies to taxable years beginning after December 31, 2005.[34]

B. Certain Business Energy Credits Allowed Against the Regular and Minimum Taxes

(Sec. 302 of the bill and sec. 38 of the Code)

PRESENT LAW

For any taxable year, the general business credit, which is the sum of the various business credits, generally may not exceed the excess of the taxpayer's net income tax over the greater of (i) the taxpayer's tentative minimum tax or (ii) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000. Any general business credit in excess of this limitation may be carried back one year and forward up to 20 years. The tentative minimum tax is an amount equal to specified rates of tax imposed on the excess of the alternative minimum taxable income over an exemption amount.

In applying the tax liability limitation to certain business energy credits that are part of the general business credit, the tentative minimum tax is treated as being zero. These credits include the alcohol fuels credit and the section 45 credit for electricity produced from a facility (placed in service after October 22, 2004) during the first four years of production beginning on the date the facility is placed in service.

REASONS FOR CHANGE

Under present law, the minimum tax limits the intended incentive effects of the energy tax credits. The Committee believes that the incentive effects of certain business energy credits should be available to taxpayers regardless of their tentative minimum tax. Accordingly, the bill provides that certain business energy credits can be utilized by offsetting both the regular tax and the alternative minimum tax.

EXPLANATION OF PROVISION

The provision expands the list of business energy credits for which the tentative minimum tax is treated as being zero to include (i) the low sulfur diesel fuel production credit, (ii) the marginal oil and gas well production credit, (iii) the portion of the investment credit attributable to qualified fuel cells, and (iv) for taxable years beginning after December 31, 2005, and before January 1, 2008, the enhanced oil recovery credit.

EFFECTIVE DATE

The provision generally applies to credits determined for taxable years beginning after December 31, 2005. In the case of the credit for qualified fuel cells, the provision applies for taxable years ending after April 11, 2005.

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[34] For taxable years beginning before January 1, 2006, present law allows all personal credits to offset both the regular tax and the alternative minimum tax.

II. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 1541.

MOTION TO REPORT THE BILL

The bill, H.R. 1541 was ordered favorably reported by a rollcall vote of 26 yeas to 11 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel			
Mr. Shaw	X			Mr. Stark			
Mrs. Johnson	X			Mr. Levin		X	
Mr. Herger	X			Mr. Cardin	X		
Mr. McCrery	X			Mr. McDermott		X	
Mr. Camp	X			Mr. Lewis (GA)		X	
Mr. Ramstad	X			Mr. Neal		X	
Mr. Nussle		X		Mr. McNulty		X	
Mr. Johnson				Mr. Jefferson	X		
Mr. Portman				Mr. Tanner	X		
Mr. English	X			Mr. Becerra		X	
Mr. Hayworth	X			Mr. Doggett		X	
Mr. Weller	X			Mr. Pomeroy	X		
Mr. Hulshof	X			Mrs. Tubbs Jones		X	
Mr. Lewis (KY)	X			Mr. Thompson	X		
Mr. Foley	X			Mr. Larsen		X	
Mr. Brady	X			Mr. Emanuel		X	
Mr. Reynolds	X						
Mr. Ryan	X						
Mr. Cantor	X						
Mr. Linder	X						
Mr. Beauprez	X						
Ms. Hart	X						
Mr. Chocola	X						

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. Doggett to section 105, which would repeal the tax credit for synthetic fuel produced from coal, was defeated by a rollcall vote of 12 yeas to 24 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas		X		Mr. Rangel			
Mr. Shaw		X		Mr. Stark			
Mrs. Johnson		X		Mr. Levin	X		
Mr. Herger		X		Mr. Cardin			
Mr. McCrery		X		Mr. McDermott	X		
Mr. Camp		X		Mr. Lewis (GA)	X		
Mr. Ramstad		X		Mr. Neal	X		
Mr. Nussle		X		Mr. McNulty	X		
Mr. Johnson				Mr. Jefferson		X	
Mr. Portman				Mr. Tanner		X	
Mr. English		X		Mr. Becerra	X		
Mr. Hayworth		X		Mr. Doggett	X		
Mr. Weller		X		Mr. Pomeroy	X		
Mr. Hulshof		X		Mrs. Tubbs Jones	X		
Mr. Lewis (KY)		X		Mr. Thompson	X		

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Foley		X		Mr. Larsen	X		
Mr. Brady		X		Mr. Emanuel	X		
Mr. Reynolds		X					
Mr. Ryan		X					
Mr. Cantor		X					
Mr. Linder		X					
Mr. Beauprez		X					
Ms. Hart		X					
Mr. Chocola		X					

III. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 1541 as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2005–2010:

ESTIMATED BUDGET EFFECTS H.R. 1541,
THE "ENHANCED ENERGY INFRASTRUCTURE AND TECHNOLOGY TAX ACT OF 2005,"
AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2005 - 2010

[Millions of Dollars]

Provision	Effective	2005	2006	2007	2008	2009	2010	2005-10
Energy Infrastructure Tax Incentives								
1. Natural gas gathering pipelines treated as 7-year property with AMT relief	ppisa 4/11/05	---	-2	-3	-2	-2	-2	-11
2. Natural gas distribution pipelines treated as 15-year property	ppisa 4/11/05	-7	-27	-59	-91	-120	-146	-450
3. New electricity transmission property rated 69kV or greater treated as 15-year property	ppisa 4/11/05	-5	-22	-51	-83	-111	-137	-409
4. 60-month amortization of qualified air pollution control facilities installed in post-1975 coal-fired electric generation plants	ppisa 4/11/05	-2	-13	-41	-85	-137	-188	-464
5. Allow section 29 credit to be a component of the general business credit (produced and sold through 12/31/07)	[1]	---	---	-275	-301	24	46	-506
6. Modification to special rules for nuclear decommissioning costs - eliminate cost of service requirement, permit transfer for pre-1984 decommissioning costs to qualified fund (seller gets deduction on sale of plant), and permit full funding in qualified fund	tyba 12/31/05	---	-122	-201	-189	-170	-128	-810
7. Exempt certain prepayments for natural gas from tax-exempt bond arbitrage rules	oia DOE	[2]	-1	-2	-3	-4	-4	-14
8. Determination of small refiner exception to oil depletion deduction - modify definition of independent refiner from daily maximum run less than 50,000 barrels to average daily run less than 75,000 barrels	tyea DOE	-3	-14	-14	-15	-15	-15	-76
Total of Energy Infrastructure Tax Incentives		**-17**	**-201**	**-646**	**-769**	**-535**	**-574**	**-2,740**

Provision	Effective	2005	2006	2007	2008	2009	2010	2005-10
Miscellaneous Energy Tax Incentives								
1. Credit for residential energy efficient property - 15% credit for residential solar hot water and photovoltaics, $2,000 maximum; 15% credit for fuel cells, $500 maximum per 0.5 KW (sunset 12/31/07)	ea DOE	---	-3	-6	-8	---	---	-18
2. Tax incentives for fuel cells - 15% credit for business installation of qualifying fuel cells, $500 maximum per 0.5 KW (sunset 12/31/07)	ppisa 4/11/05	[3]	-1	-2	-1	[3]	[3]	-6
3. Reduced motor fuel excise tax rate for diesel fuel blended with water [4]	1/1/06	---	[3]	[3]	[3]	[3]	[3]	[3]
4. Amortize all delay rental payments over 2 years	apoii tyba DOE	57	42	-52	-99	-88	-60	-200
5. Amortize all geological and geophysical expenditures over 2 years	apoii tyba DOE	123	148	-73	-197	-208	-145	-353
6. Advanced lean-burn technology motor vehicle credit (sunset 12/31/07) [5]	ppisa DOE	---	-5	-25	-31	-4	-4	-69
7. Energy efficient improvements to existing homes - 20% credit, $2,000 maximum; (sunset 12/31/07)	ppisa DOE	---	-110	-157	-125	---	---	-391
Total of Miscellaneous Energy Tax Incentives		**180**	**71**	**-315**	**-461**	**-300**	**-209**	**-1,037**
Alternative Minimum Tax Relief Provisions								
1. Allow individual credits against the alternative minimum tax	tyea DOE	---	-23	-33	-27	---	---	-82
2. Allow certain business energy credits against the alternative minimum tax:								
a. Enhanced oil recovery credit (for 2006 and 2007)	tyba 12/31/05	---	-155	-216	-3	98	87	-190
b. Credits for marginal wells, low-sulfur diesel fuel credit, and business installation of qualifying fuel cells	[6]	[3]	-2	-3	-5	-8	3	-16
Total of Alternative Minimum Tax Relief Provisions		**---**	**-180**	**-252**	**-35**	**90**	**90**	**-288**
NET TOTAL		**163**	**-310**	**-1,213**	**-1,265**	**-745**	**-693**	**-4,065**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be July 1, 2005.

Legend for "Effective" column:
apoii = amounts paid or incurred in
DOE = date of enactment
ea = expenditures after
oia = obligations issued after
ppisa = property placed in service after
tyba = taxable years beginning after
tyea = taxable years ending after

[Footnotes for the Table appear on the following page]

Footnotes for the Table:

[1] Effective for credits earned after December 31, 2005. No carryback of unused credit for taxes paid prior to January 1, 2006.
[2] Loss of less than $1 million.
[3] Loss of less than $500,000.
[4] Estimate assumes an emulsion percentage of 16.9 percent water.
[5] Estimate may change significantly upon receipt of updated baseline information from the Department of Energy.
[6] Generally effective for taxable years beginning after December 31, 2005, and for business installation of qualifying fuel cells, effective for taxable years ending after April 11, 2005.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue reducing income tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 18, 2005.

Hon. WILLIAM "BILL" M. THOMAS,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1541, the Enhanced Energy Infrastructure and Technology Tax Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Annabelle Bartsch.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 1541—Enhanced Energy Infrastructure and Technology Tax Act of 2005

Summary: H.R. 1541 would amend a number provisions in the Internal Revenue Code primarily relating to energy. Some of those changes include modifying the depreciation lifetimes of some energy infrastructure, allowing certain energy-related expenditures to be amortized, creating various tax credits related to the use of energy-efficient technologies, and allowing energy-related tax credits to be applied against the alternative minimum tax. The bill would not affect direct spending or spending subject to appropriation.

The Joint Committee on Taxation (JCT) estimates that enacting H.R. 1541 would increase federal revenues by $163 million in 2005, and decrease revenues by about $4.2 billion over the 2006–2010 period and by about $8.2 billion over the 2006–2015 period.

JCT has determined that H.R. 1541 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The budgetary impact of H.R. 1541 over the 2005–2015 period is shown in the following table.

	By fiscal year, in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN REVENUES											
Energy Infrastructure Tax Provisions	−17	−201	−646	−769	−535	−574	−633	−658	−683	−708	−732
Miscellaneous Energy Tax Provisions	180	71	−315	−461	−300	−209	−162	−164	−159	−161	−171
Alternative Minimum Tax Provisions	(1)	−180	−252	−35	90	90	84	70	43	11	(2)
Estimated Revenues	163	−310	−1,213	−1,265	−745	−693	−711	−752	−799	−858	−903

[1] Loss of less than $500,000.
[2] Gain of less than $500,000.
Source: Joint Committee on Taxation.

Basis of estimate: JCT estimated all of the revenue effects of the bill. In total, JCT estimates enacting provisions of H.R. 1541 would increase federal revenues by $163 million in 2005, and decrease revenues by about $4.2 billion over the 2006–2010 period and $8.2 billion over the 2006–2015 period.

Energy Infrastructure Tax Provisions

In total, JCT estimates enacting Title I would reduce federal revenues by $17 million in 2005, and by about $2.7 billion over the 2006–2010 period and $6.1 billion over the 2006–2015 period. Roughly half of the decrease in receipts, about $3.1 billion over the 2005–2015 period, would result from shortening the depreciation lifetimes for certain types of infrastructure equipment, including natural gas gathering and distribution pipelines and certain electricity transmission property. Modifying special rules for nuclear decommissioning costs would result in an additional decrease in revenues of about $1.3 billion over the 2006–2015 period, and expanding the eligibility rules for amortizing air pollution control facilities would further reduce federal revenues by about $1.4 billion over the 2005–2015 period. JCT estimates the remaining provisions would lower receipts by $628 million between 2005 and 2008 and then increase receipts by $328 million from 2009 to 2015.

Miscellaneous Energy Tax Incentives

Title II would provide tax credits for the use of various energy-efficient technologies. Those include installing residential solar hot water heaters and residential and commercial installation of fuel cells, as well as making energy efficient improvements to existing homes. JCT estimates the credits would reduce revenues by $488 million between 2006 and 2012, though they would sunset on December 31, 2007. Other provisions would allow a two-year amortization period for certain delayed rental payments and all geological and geophysical expenditures related to oil and gas exploration. JCT estimates those provisions would increase receipts by $370 million between 2005 and 2006, and then decrease receipts by about $1.7 billion between 2007 and 2015. In total, the provisions in title II would increase revenues by $180 million in 2005, and decrease revenues by about $1.2 billion over the 2006–2010 period and by about $2 billion over the 2006–2015 period.

Alternative Minimum Tax Relief Provisions

Title III would allow taxpayers to apply certain energy-related credits against the alternative minimum tax. JCT estimates that the credits for individual taxpayers would decrease federal revenues by $82 million over the 2006–2008 period. Tax credits for businesses would reduce revenues by $384 million over the 2006–2008 period, and then increase revenues by about the same amount over the 2009–2015 period.

Intergovernmental and private-sector impact: JCT has determined that H.R. 1541 contains no intergovernmental or private-sector mandates and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Annabelle Bartsch.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis.

D. Macroeconomic Impact Analysis

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are too small to be calculated within the context of a model of the aggregate economy.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning the tax burden on taxpayers that the Committee concluded that it is appropriate and timely to enact the revenue provision included in the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises. . ."), and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

G. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter A—Determination of Tax Liability

* * * * * * *

PART IV—CREDITS AGAINST TAX

* * * * * * *

Subpart A—Nonrefundable Personal Credits

Sec. 21. Expenses for household and dependent care serveices necessary for gainful employment.

* * * * * * *

Sec. 25B. Elective deferrals and IRA contributions by certain individuals.
Sec. 25C. Residential energy efficient property.
Sec. 25D. Energy efficiency improvements to existing homes.

* * * * * * *

SEC. 23. ADOPTION EXPENSES.

(a) * * *

(b) LIMITATIONS.—

(1) * * *

* * * * * * *

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

(A) * * *

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

* * * * * * *

SEC. 24. CHILD TAX CREDIT.

(a) * * *

(b) LIMITATIONS.—

(1) * * *

* * * * * * *

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

(A) * * *

(B) the sum of the credits allowable under this subpart (other than this section and sections 23 **[**and 25B**]***, 25B, 25C, and 25D*) and section 27 for the taxable year.

* * * * * * *

SEC. 25. INTEREST ON CERTAIN HOME MORTGAGES.

(a) * * *

* * * * * * *

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

(1) CARRYFORWARD OF UNUSED CREDIT.—

(A) * * *

* * * * * * *

(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term "applicable tax limit" means the limitation imposed by section 26(a) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 24, 25B, *25C, and 25D* and 1400C).

* * * * * * *

SEC. 25B. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

(a) * * *

* * * * * * *

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

(1) * * *

(2) the sum of the credits allowable under this subpart (other than this section and **[**section 23**]** *sections 23, 25C, and 25D*) and section 27 for the taxable year.

SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

(1) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

(2) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year, and

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

(b) LIMITATIONS.—

(1) MAXIMUM CREDIT.—

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

(i) $2,000 for solar water heating property described in subsection (c)(1),

(ii) $2,000 for photovoltaic property described in subsection (c)(2), and

(iii) $500 for each 0.5 kilowatt of capacity of property described in subsection (c)(3).

(B) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—In determining the amount of the credit allowed to a taxpayer with respect to any dwelling unit under this section, the dollar amounts under clauses (i) and (ii) of subparagraph (A) with respect to each type of property described in such clauses shall be reduced by the credit allowed to the taxpayer under this section with respect to such type of property for all preceding taxable years with respect to such dwelling unit.

(2) PROPERTY STANDARDS.—No credit shall be allowed under this section for an item of property unless—

(A) the original use of such property commences with the taxpayer,

(B) such property can be reasonably expected to remain in use for at least 5 years,

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

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

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

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

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

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

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

(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term "qualified solar water heating property expenditure" means an expenditure for property which uses solar energy to heat water for use in a dwelling unit.

(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term "qualified photovoltaic property expenditure" means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit and which is not described in paragraph (1).

(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term "qualified fuel cell property expenditure" means an expenditure for any qualified fuel cell property (as defined in section 48(b)(1)).

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

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

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

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

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

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

(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (c).

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

(5) CONDOMINIUMS.—

(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with

respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

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

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

(7) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

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

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

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

(8) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).a)(4)(C)).

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

(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2007.

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

(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

(b) LIMITATIONS.—

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

(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling unit shall be reduced by the sum of the credits allowed under sub-

section (a) to the taxpayer with respect to the dwelling unit for all prior taxable years.

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

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

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

(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term "qualified energy efficiency improvements" means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005 (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

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

(2) the original use of such component commences with the taxpayer, and

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

If the aggregate cost of such components with respect to any dwelling unit exceeds $1,000, such components shall be treated as qualified energy efficiency improvements only if such components are also certified in accordance with subsection (d) as meeting such prescriptive criteria.

(d) CERTIFICATION.—The certification described in subsection (c) shall be—

(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency (based upon energy use or building envelope component performance) for the energy efficient building envelope component,

(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Residential Energy Services Network (RESNET), and

(3) made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

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

(1) BUILDING ENVELOPE COMPONENT.—The term "building envelope component" means—

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

(B) exterior windows (including skylights),

(C) exterior doors, and

(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

(2) MANUFACTURED HOMES INCLUDED.—The term "dwelling unit" includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

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

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

(g) APPLICATION OF SECTION.—This section shall apply to qualified energy efficiency improvements installed after the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, and before January 1, 2008.

SEC. 26. LIMITATION BASED ON TAX LIABILITY; DEFINITION OF TAX LIABILITY.

(a) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—The aggregate amount of credits allowed by this subpart (other than sections 23, 24, [and 25B] *25B, 25C, and 25D*) for the taxable year shall not exceed the excess (if any) of—

(A) * * *

* * * * * * *

Subpart B—Other Credits

Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit.

* * * * * * *

[Sec. 29. Credit for producing fuel from a nonconventional source.]

* * * * * * *

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

* * * * * * *

SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) * * *

(b) LIMITATIONS.—

(1) * * *

* * * * * * *

(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and [sections 27 and 29] *section 27*, over—

* * * * * * *

SEC. 30B. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

(b) CREDIT AMOUNT.—For purposes of subsection (a)—

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

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

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

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

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

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

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

(2) CONSERVATION.—The credit amount determined under paragraph (1) with respect to any vehicle shall be increased by—

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

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

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

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

(2) the sum of the credits allowable under subpart A and sections 27 and 30A for the taxable year.

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

(1) QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term "qualified advanced lean burn technology motor vehicle" means a motor vehicle—

(A) the original use of which commences with the taxpayer,

(B) powered by an internal combustion engine that—

(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel, and

(ii) incorporates direct injection,

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

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

(E) that has received a certificate that such vehicle meets or exceeds the Bin 8 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act.

(2) LIFETIME FUEL SAVINGS.—The term "lifetime fuel savings" means, with respect to a qualified advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

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

(B) 120,000 divided by the city fuel economy for such vehicle.

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

(A) In the case of a passenger automobile:

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

(B) In the case of a light truck:

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

(4) MOTOR VEHICLE.—The term "motor vehicle" has the meaning given such term by section 30(c)(2).

(5) CITY FUEL ECONOMY.—City fuel economy with respect to any vehicle shall be measured in accordance with testing and calculation procedures established by the Administrator of the Environmental Protection Agency by regulations in effect on April 11, 2005.

(6) OTHER TERMS.—The terms "passenger automobile", "light truck", and "manufacturer" shall have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

(e) CARRYFORWARD ALLOWED.—

(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (c) for such taxable year (referred to as the "unused credit year" in this paragraph), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

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

(1) REDUCTION IN BASIS.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

(2) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credit allowable under subsection (a)), with respect to any vehicle shall be reduced by the amount of credit allowed under subsection (a) (determined without regard to subsection (c)) for such vehicle for the taxable year.

(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)).

(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

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

(6) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

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

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out this section, including regulations to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or leasing of any motor vehicle for a lease period of less than the economic life of such vehicle.

(2) DETERMINATION OF MOTOR VEHICLE ELIGIBILITY.—The Secretary, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

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

Subpart D—Business Related Credits

Sec. 38. General business credit.

* * * * * * *

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

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

* * * * * * *

SEC. 38. GENERAL BUSINESS CREDIT.

(a) * * *

(b) CURRENT YEAR BUSINESS CREDIT.—For purposes of this subpart, the amount of the current year business credit is the sum of the following credits determined for the taxable year:

(1) * * *

* * * * * * *

(18) the low sulfur diesel fuel production credit determined under section 45H(a), **[**plus**]**

(19) the marginal oil and gas well production credit determined under section 45I(a)**[**.**]**, *plus*

(20) the nonconventional source production credit determined under section 45J(a).

(c) LIMITATION BASED ON AMOUNT OF TAX.—

(1) * * *

* * * * * * *

(4) SPECIAL RULES FOR SPECIFIED CREDITS.—

(A) * * *

(B) SPECIFIED CREDITS.—For purposes of this subsection, the term "specified credits" includes—

[(i) for taxable years beginning after December 31, 2004, the credit determined under section 40,**]**

(i) the credits determined under sections 40, 45H, and 45I,

(ii) so much of the credit determined under section 46 as is attributable to section 48(a)(3)(A)(iii),

(iii) for taxable years beginning after December 31, 2005, and before January 1, 2008, the credit determined under section 43, and

[(ii)**]** *(iv)* the credit determined under section 45 to the extent that such credit is attributable to electricity or refined coal produced—

(I) * * *

* * * * * * *

SEC. 43. ENHANCED OIL RECOVERY CREDIT.

(a) * * *

(b) PHASE-OUT OF CREDIT AS CRUDE OIL PRICES INCREASE.—

(1) * * *

(2) REFERENCE PRICE.—For purposes of this subsection, the term "reference price" means, with respect to any calendar year, the reference price determined for such calendar year under **[**section 29(d)(2)(C)**]** *section 45J(d)(2)(C)*.

* * * * * * *

SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES, ETC.

(a) * * *

* * * * * * *

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

(1) * * *

* * * * * * *

(9) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—The term "qualified facility" shall not include any facility the production from which is allowed as a credit under **[**section 29**]** *section 45J* for the taxable year or any prior taxable year *(or under section 29, as in effect on the day before the date of enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, for any prior taxable year)*.

* * * * * * *

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

(a) * * *

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

(1) * * *

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

(A) * * *

* * * * * * *

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

(i) in the case of qualified crude oil production, the reference price determined under [section 29(d)(2)(C)] *section 45J(d)(2)(C)*, and

* * * * * * *

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

(1) * * *

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

(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel-of-oil equivalents (as defined in [section 29(d)(5))] *section 45J(d)(5))*.

* * * * * * *

(d) OTHER RULES.—

(1) * * *

* * * * * * *

(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under [section 29] *section 45J* for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under [section 29] *section 45J* with respect to the well.

* * * * * * *

SEC. [29] *45J*. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) ALLOWANCE OF CREDIT.—[There shall be allowed as a credit against the tax imposed by this chapter for the taxable year] *For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is* an amount equal to—

(1) * * *

* * * * * * *

(b) LIMITATIONS AND ADJUSTMENTS.—

(1) * * *

* * * * * * *

[(6) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

[(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and section 27, over

[(B) the tentative minimum tax for the taxable year.]

(c) DEFINITION OF QUALIFIED FUELS.—For purposes of this section—

(1) * * *

(2) GAS FROM GEOPRESSURED BRINE, ETC.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a

tight formation shall be made in accordance with section 503 of the Natural Gas Policy Act of 1978 *(as in effect before the repeal of such section)*.

(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term "gas produced from a tight formation" shall only include gas from a tight formation—

(i) which, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the Natural Gas Policy Act of 1978, as in effect on the date of the enactment of this clause), or

(ii) which is produced from a well drilled after such date of enactment.

* * * * * * *

[(e) APPLICATION WITH THE NATURAL GAS POLICY ACT OF 1978.—

[(1) NO CREDIT IF SECTION 107 OF THE NATURAL GAS POLICY ACT OF 1978 IS UTILIZED.—Subsection (a) shall apply with respect to any natural gas described in subsection (c)(1)(B)(i) which is sold during the taxable year only if such natural gas is sold at a lawful price which is determined without regard to the provisions of section 107 of the Natural Gas Policy Act of 1978 and subtitle B of title I of such Act.

[(2) TREATMENT OF THIS SECTION.—For purposes of section 107(d) of the Natural Gas Policy Act of 1978, this section shall not be treated as allowing any credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax.**]**

[(f)**]** *(e)* APPLICATION OF SECTION.—This section shall apply with respect to qualified fuels—

(1) * * *

* * * * * * *

[(g)**]** *(f)* Extension for Certain Facilities.—

(1) IN GENERAL.—In the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

(A) for purposes of subsection **[**(f)(1)(B)**]** *(e)(1)(B)*, such facility shall be treated as being placed in service before January 1, 1993, if such facility is placed in service before July 1, 1998, pursuant to a binding written contract in effect before January 1, 1997, and

(B) if such facility is originally placed in service after December 31, 1992, paragraph (2) of subsection **[**(f)**]** *(e)* shall be applied with respect to such facility by substituting "January 1, 2008" for "January 1, 2003".

Subpart E—Rules for Computing Credit for Investment in Certain Depreciable Property

* * * * * * *

SEC. 48. ENERGY CREDIT.

(a) ENERGY CREDIT.—

(1) IN GENERAL.—For purposes of section 46, *except as provided in subsection (b)(2),* the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year.

(2) ENERGY PERCENTAGE.—

[(A) IN GENERAL.—The energy percentage is 10 percent.]

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

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

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

* * * * * * *

(3) ENERGY PROPERTY.—For purposes of this subpart, the term "energy property" means any property—

(A) which is—

(i) equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, [or]

(ii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage, *or*

(iii) qualified fuel cell property,

* * * * * * *

[(b)] *(5)* CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of [subsection (a)] *this subsection*.

(b) QUALIFIED FUEL CELL PROPERTY.—For purposes of subsection (a)(3)(A)(iii)—

(1) IN GENERAL.—The term "qualified fuel cell property" means a fuel cell power plant which—

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

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

(2) LIMITATION.—The energy credit with respect to any qualified fuel cell property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

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

(4) TERMINATION.—The term "qualified fuel cell property" shall not include any property placed in service after December 31, 2007.

* * * * * * *

Subpart G—Credit Against Regular Tax for Prior Year Minimum Tax Liability

* * * * * * *

SEC. 53. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.

(a) * * *

* * * * * * *

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

(1) NET MINIMUM TAX.—

(A) * * *

(B) CREDIT NOT ALLOWED FOR EXCLUSION PREFERENCES.—

(i) * * *

* * * * * * *

(iii) SPECIAL RULE.—The adjusted net minimum tax for the taxable year shall be increased by the amount of the credit not allowed **[**under section 29 (relating to credit for producing fuel from a nonconventional source) solely by reason of the application of section 29(b)(6)(B), or not allowed**]** under section 30 solely by reason of the application of section 30(b)(3)(B).

* * * * * * *

PART VI—MINIMUM TAX FOR TAX PREFERENCES

* * * * * * *

SEC. 55. ALTERNATIVE MINIMUM TAX IMPOSED.

(a) * * *

* * * * * * *

(c) REGULAR TAX.—

(1) * * *

* * * * * * *

(3) CROSS REFERENCES.—

For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), [29(b)(6),] 30(b)(3) and 38(c).

* * * * * * *

SEC. 56. ADJUSTMENTS IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.

(a) ADJUSTMENTS APPLICABLE TO ALL TAXPAYERS.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) DEPRECIATION.—

(A) * * *

(B) EXCEPTION FOR CERTAIN PROPERTY.—This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f)*, or in section 168(e)(3)(C)(iv)*.

* * * * * * *

PART IV—TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS

* * * * * * *

Subpart A—Private Activity bonds

* * * * * * *

SEC. 141. PRIVATE ACTIVITY BOND; QUALIFIED BOND

(a) * * *

* * * * * * *

(c) PRIVATE LOAN FINANCING TEST.—

(1) * * *

(2) EXCEPTION FOR TAX ASSESSMENT, ETC., LOANS.—For purposes of paragraph (1), a loan is described in this paragraph if such loan—

(A) enables the borrower to finance any governmental tax or assessment of general application for a specific essential governmental function, [or]

(B) is a nonpurpose investment (within the meaning of section 148(f)(6)(A))[.], *or*

(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).

(d) CERTAIN ISSUES USED TO ACQUIRE NONGOVERNMENTAL OUTPUT PROPERTY TREATED AS PRIVATE ACTIVITY BONDS.—

(1) * * *

* * * * * * *

(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term "nongovernmental output property" shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).

* * * * * * *

Subpart B—Requirements Applicable to All State and Local Bonds

* * * * * * *

SEC. 148. ARBITRAGE.

(a) * * *

(b) HIGHER YIELDING INVESTMENTS.—For purposes of this section—

(1) * * *

* * * * * * *

(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

(A) IN GENERAL.—The term "investment-type property" does not include a prepayment under a qualified natural gas supply contract.

(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term "qualified natural gas supply contract" means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

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

(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

(i) only if the electricity is generated by a utility owned by a governmental unit, and

(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

(i) NEW BUSINESS CUSTOMERS.—If—

(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

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

(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term "applicable share" means, with respect to

any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

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

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

(H) TESTING PERIOD.—For purposes of this paragraph, the term "testing period" means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

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

(i) any area throughout which such utility provided at all times during the testing period—

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

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

(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

(iii) any area recognized as the service area of such utility under State or Federal law.

* * * * * * *

PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

* * * * * * *

SEC. 167. DEPRECIATION.

(a) * * *

* * * * * * *

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

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

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

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

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

(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term "delay rental payment" means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.

(i) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

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

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

[(h)**]** *(j)* CROSS REFERENCES.—

(1) * * *

* * * * * * *

SEC. 168. ACCELERATED COST RECOVERY SYSTEM.

(a) * * *

* * * * * * *

(e) CLASSIFICATION OF PROPERTY.—For purposes of this section—

(1) * * *

* * * * * * *

(3) CLASSIFICATION OF CERTAIN PROPERTY.—

(A) * * *

* * * * * * *

(C) 7-year property.—The term "7-year property" includes—

(i) * * *

* * * * * * *

(iii) any Alaska natural gas pipeline, **[**and**]**

(iv) any natural gas gathering line, and

[(iv)**]** *(v)* any property which—

(I) does not have a class life, and

(II) is not otherwise classified under paragraph (2) or this paragraph.

* * * * * * *

(E) 15-year property.—The term "15-year property" includes—

(i) * * *

* * * * * * *

(v) any qualified restaurant property placed in service before January 1, 2006, [and]

(vi) initial clearing and grading land improvements with respect to gas utility property[.],

(vii) any natural gas distribution line, and

(viii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005.

* * * * * * *

(g) ALTERNATIVE DEPRECIATION SYSTEM FOR CERTAIN PROPERTY.—

(1) * * *

* * * * * * *

(3) SPECIAL RULES FOR DETERMINING CLASS LIFE.—

(A) * * *

(B) SPECIAL RULE FOR CERTAIN PROPERTY ASSIGNED TO CLASSES.—For purposes of paragraph (2), in the case of property described in any of the following subparagraphs of subsection (e)(3), the class life shall be determined as follows:

If property is described in subparagraph:	**The class life is:**
(A)(iii)	4
(B)(ii)	5
(B)(iii)	9.5
(C)(i)	10
(C)(iii)	22
(C)(iv)	*14*
(D)(i)	15
(D)(ii)	20
(E)(i)	24
(E)(ii)	24
(E)(iii)	20
(E)(iv)	39
(E)(v)	39
(E)(vi)	20
(E)(vii)	*35*
(E)(viii)	*30*
(F)	25.

* * * * * * *

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

(1) * * *

* * * * * * *

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

(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

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

(i) a gas processing plant,

(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission

pipeline has been issued by the Federal Energy Regulatory Commission,

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

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

* * * * * * *

SEC. 169. AMORTIZATION OF POLLUTION CONTROL FACILITIES.

(a) * * *

* * * * * * *

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

(1) * * *

* * * * * * *

(3) FEDERAL CERTIFYING AUTHORITY.—The term "Federal certifying authority" means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of [Health, Education, and Welfare] *Health and Human Services*.

(4) NEW IDENTIFIABLE TREATMENT FACILITY.—

(A) * * *

[(B) Certain plants, etc., placed in operation after 1968In the case of any treatment facility used in connection with any plant or other property not in operation before January 1, 1969, the preceding sentence shall be applied by substituting December 31, 1975, for December 31, 1968.]

(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER APRIL 11, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting "April 11, 2005" for "December 31, 1968" each place it appears therein.

(5) SPECIAL RULE RELATING TO CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—In the case of any atmospheric pollution control facility which is placed in service after April 11, 2005, and used in connection with an electric generation plant or other property which is primarily coal fired, paragraph (1) shall be applied without regard to the phrase "in operation before January 1, 1976".

* * * * * * *

PART IX—ITEMS NOT DEDUCTIBLE

* * * * * * *

SEC. 263A. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

(a) * * *

* * * * * * *

(c) GENERAL EXCEPTIONS.—

(1) * * *

* * * * * * *

(3) CERTAIN DEVELOPMENT AND OTHER COSTS OF OIL AND GAS WELLS OR OTHER MINERAL PROPERTY.—This section shall not apply to any cost allowable as a deduction under section *167(h), 167(i),* 179B, 263(c), 263(i), 291(b)(2), 616, or 617.

* * * * * * *

Subchapter E—Accounting Periods and Methods of Accounting

* * * * * * *

PART II—METHODS OF ACCOUNTING

* * * * * * *

Subpart A—Methods of Accounting in General

* * * * * * *

SEC. 468A. SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) * * *

[(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the lesser of—

[(1) the amount of nuclear decommissioning costs allocable to the Fund which is included in the taxpayer's cost of service for ratemaking purposes for such taxable year, or

[(2) the ruling amount applicable to such taxable year.]

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

* * * * * * *

(d) RULING AMOUNT.—For purposes of this section—

(1) REQUEST REQUIRED.—No deduction shall be allowed for any payment to the Fund unless the taxpayer requests, and receives, from the Secretary a schedule of ruling amounts.

(2) RULING AMOUNT.—The term "ruling amount" means, with respect to any taxable year, the amount which the Secretary determines under paragraph (1) to be necessary to—

[(A) fund that portion of the nuclear decommissioning costs of the taxpayer with respect to the nuclear power plant which bears the same ratio to the total nuclear decommissioning costs with respect to such nuclear power plant as the period for which the Fund is in effect bears to the estimated useful life of such nuclear power plant, and]

(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and

* * * * * * *

(e) NUCLEAR DECOMMISSIONING RESERVE FUND.—

(1) * * *

(2) TAXATION OF FUND.—

(A) IN GENERAL.—There is hereby imposed on the gross income of the Fund for any taxable year a tax at the [rate

set forth in subparagraph (B)] *rate of 20 percent*, except that—

(i) * * *

* * * * * * *

[(B) RATE OF TAX.—For purposes of subparagraph (A), the rate set forth in this subparagraph is—

[(i) 22 percent in the case of taxable years beginning in calendar year 1994 or 1995, and

[(ii) 20 percent in the case of taxable years beginning after December 31, 1995.]

[(C)] *(B)* TAX IN LIEU OF OTHER TAXATION.—The tax imposed by subparagraph (A) shall be in lieu of any other taxation under this subtitle of the income from assets in the Fund.

[(D)] *(C)* FUND TREATED AS CORPORATION.—For purposes of subtitle F—

(i) * * *

* * * * * * *

(f) TRANSFERS INTO QUALIFIED FUNDS.—

(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005.

(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

(C) TRANSFERS OF QUALIFIED FUNDS.—If—

(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

(ii) such Fund is transferred thereafter,

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

(D) SPECIAL RULES.—

(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS TO FUND.—No gain or loss shall be recognized on any transfer described in paragraph (1).

(ii) TRANSFERS OF APPRECIATED PROPERTY TO FUND.—If appreciated property is transferred in a transfer described in paragraph (1), the amount of the deduction shall not exceed the adjusted basis of such property.

(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.

[(f)**]** *(g)* NUCLEAR POWER PLANT.—For purposes of this section, the term "nuclear power plant" includes any unit thereof.

[(g)**]** *(h)* TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to the Fund on the last day of a taxable year if such payment is made on account of such taxable year and is made within 2-1/2 months after the close of such taxable year.

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Subchapter I—Natural Resources

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PART I—DEDUCTIONS

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SEC. 613A. LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.

(a) * * *

* * * * * * *

(c) EXEMPTION FOR INDEPENDENT PRODUCERS AND ROYALTY OWNERS.—

(1) * * *

* * * * * * *

(6) OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.—

(A) * * *

* * * * * * *

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term "applicable percentage" means the percentage (not greater than 25 percent) equal to the sum of—

(i) * * *

* * * * * * *

For purposes of this paragraph, the term "reference price" means, with respect to any calendar year, the reference

price determined for such calendar year under [section 29(d)(2)(C)] *section 45J(d)(2)(C)*.

* * * * * * *

(d) LIMITATIONS ON APPLICATION OF SUBSECTION (C).—

(1) * * *

* * * * * * *

[(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to such taxpayer if on any day during the taxable year the refinery runs of the taxpayer and such person exceed 50,000 barrels.]

(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.

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Subchapter K—Partners and Partnerships

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PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

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SEC. 772. SIMPLIFIED FLOW-THROUGH.

(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

(1) * * *

* * * * * * *

(9) foreign income taxes, *and*

[(10) the credit allowable under section 29, and]

[(11)] *(10)* other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

* * * * * * *

(d) OPERATING RULES.—For purposes of this section—

(1) * * *

* * * * * * *

(5) GENERAL CREDITS.—The term "general credits" means any credit other than the low-income housing credit, the rehabilitation credit, [the foreign tax credit, and the credit allowable under section 29] *and the foreign tax credit*.

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Subchapter N—Tax Based on Income from Sources Within or Without the United States

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PART III—INCOME FROM SOURCES WITHOUT THE UNITED STATES

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Subpart A—Foreign tax credit

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SEC. 904. LIMITATION ON CREDIT.

(a) * * *

* * * * * * *

(i) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of an individual, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter (other than sections 23, 24, **[**and 25B**]** *25B, 25C, and 25D*). This subsection shall not apply to taxable years beginning during 2000, 2001, 2002, 2003, 2004, or 2005.

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Subchapter O—Gain or Loss on Disposition of Property

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PART II—BASIS RULES OF GENERAL APPLICATION

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SEC. 1016. ADJUSTMENTS TO BASIS.

(a) GENERAL RULE.—Proper adjustment in respect of the property shall in all cases be made—

(1) * * *

* * * * * * *

(30) to the extent provided in section 179B(c), **[**and**]**

(31) in the case of a facility with respect to which a credit was allowed under section 45H, to the extent provided in section 45H(d)**[**.**]**,

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

(33) to the extent provided in section 30B(f)(1), and

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

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Subchapter W—District of Columbia Enterprise Zone

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SEC. 1400C. FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA

(a) * * *

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(d) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and sections 23, 24, [and 25B] *25B, 25C, and 25D*, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

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Subtitle D—Miscellaneous Excise Taxes

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CHAPTER 32—MANUFACTURERS EXCISE TAXES

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Subchapter A—Automotive and Related Items

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PART III—PETROLEUM PRODUCTS

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Subpart A—Gasoline and Diesel Fuel

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SEC. 4081. IMPOSITION OF TAX.

(a) TAX IMPOSED.—

(1) * * *

(2) RATES OF TAX.—

(A) * * *

* * * * * * *

(D) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least 16.9 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting "19.7 cents" for "24.3 cents".

* * * * * * *

(c) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

Subtitle F—Procedure and Administration

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules for Special Application

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SEC. 6427. FUELS NOT USED FOR TAXABLE PURPOSES.

(a) * * *

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(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) REGULAR TAX RATE.—The term "regular tax rate" means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

(B) INCENTIVE TAX RATE.—The term "incentive tax rate" means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).

[(m)**]** *(n)* REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

[(n)**]** *(o)* PAYMENTS FOR TAXES IMPOSED BY SECTION 4041(D).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

[(o)**]** *(p)* GASOHOL USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if—

(1) * * *

* * * * * * *

[(p)] *(q)* CROSS REFERENCES.—

(1) FOR CIVIL PENALTY FOR EXCESSIVE CLAIMS UNDER THIS SECTION, SEE SECTION 6675

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CHAPTER 66—LIMITATIONS

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Subchapter A—Limitations on Assessment and Collection

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SEC. 6501. LIMITATIONS ON ASSESSMENT AND COLLECTION.

(a) * * *

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(m) DEFICIENCIES ATTRIBUTABLE TO ELECTION OF CERTAIN CREDITS.—The period for assessing a deficiency attributable to any election under section 30(d)(4), *30B(f)(6),* 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation).

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