

108TH CONGRESS  
1ST SESSION

# H. R. 1271

To amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2003

Mr. CUNNINGHAM (for himself, Mr. MARKEY, Mr. CRANE, and Mr. MATSUI) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Efficient Energy  
5 through Certified Technologies (EFFECT) Act of 2003”.

1 **SEC. 2. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**  
 2 **PROPERTY USED IN BUSINESS.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-  
 4 ter 1 of the Internal Revenue Code of 1986 is amended  
 5 by adding at the end the following new section:

6 **“SEC. 199. ENERGY PROPERTY DEDUCTION.**

7 “(a) IN GENERAL.—There shall be allowed as a de-  
 8 duction for the taxable year an amount equal to the sum  
 9 of—

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

13 “(2) the energy efficient commercial building  
 14 property deduction determined under subsection (e),  
 15 and

16 “(3) the energy efficient residential rental  
 17 building property deduction determined under sub-  
 18 section (f).

19 “(b) AMOUNT FOR ENERGY PROPERTY.—

20 “(1) IN GENERAL.—The amount determined  
 21 under this subsection for the taxable year for each  
 22 item of energy property shall equal the amount spec-  
 23 ified for such property in the following table:

Description of property:	Allowable amount is:
Elected solar hot water property .....	\$1.00 per each kwh/year of sav- ings.

Description of property:	Allowable amount is:
Photovoltaic property .....	\$4.50 per peak watt.
Advanced main air circulating fan .....	\$150.
Tier 2 energy-efficient building property .....	\$900.
Tier 1 energy-efficient building property (other than an advanced main air circulating fan.	\$450.

1           “(2) ELECTED SOLAR HOT WATER PROP-  
2           ERTY.—In the case of elected solar hot water prop-  
3           erty, the taxpayer may elect to substitute ‘\$21 per  
4           annual Therm of natural gas savings’ for ‘\$1.00 per  
5           each kwh/year of savings’ in the table contained in  
6           paragraph (1).

7           “(c) ENERGY PROPERTY DEFINED.—

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

10           “(A) which is—

11           “(i) solar energy property,

12           “(ii) Tier 2 energy-efficient building  
13           property, or

14           “(iii) Tier 1 energy-efficient building  
15           property,

16           “(B)(i) the construction, reconstruction, or  
17           erection of which is completed by the taxpayer,

18           or

19           “(ii) which is acquired by the taxpayer if  
20           the original use of such property commences  
21           with the taxpayer,

1           “(C) with respect to which depreciation (or  
2 amortization in lieu of depreciation) is allow-  
3 able, and

4           “(D) which meets the performance and  
5 quality standards, and the certification require-  
6 ments (if any), which—

7           “(i) have been prescribed by the Sec-  
8 retary by regulations (after consultation  
9 with the Secretary of Energy or the Ad-  
10 ministrator of the Environmental Protec-  
11 tion Agency, as appropriate),

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

15           “(I) require measurements to be  
16 based on published data which is test-  
17 ed by manufacturers at 95 degrees  
18 Fahrenheit, and

19           “(II) do not require ratings to be  
20 based on certified data of the Air  
21 Conditioning and Refrigeration Insti-  
22 tute,

23           “(iii) in the case of geothermal heat  
24 pumps—

1           “(I) shall be based on testing  
2           under the conditions of ARI/ISO  
3           Standard 13256–1 for Water Source  
4           Heat Pumps or ARI 870 for Direct  
5           GeoExchange Heat Pumps (DX), as  
6           appropriate, and

7           “(II) shall include evidence that  
8           water heating services have been pro-  
9           vided through a desuperheater or inte-  
10          grated water heating system con-  
11          nected to the storage water heater  
12          tank, and

13          “(iv) are in effect at the time of the  
14          acquisition of the property.

15          “(2) SOLAR ENERGY PROPERTY.—In the case  
16          of—

17                 “(A) elected solar hot water property, the  
18                 regulations under paragraph (1)(D) shall be  
19                 based on the OG–300 Standard for the Annual  
20                 Performance of OG–300 Certified Systems of  
21                 the Solar Rating and Certification Corporation,  
22                 and

23                 “(B) photovoltaics, such regulations shall  
24                 be based on the ASTM Standard E 1036 and  
25                 E 1036M–96 Standard Test Method for Elec-

1           tric Performance of Nonconcentrator Terres-  
2           trial Photovoltaic Modules and Arrays Using  
3           Reference Cells,

4           to the extent the Secretary determines such stand-  
5           ards carry out the purposes of this section.

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

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

13           “(1) SOLAR ENERGY PROPERTY.—

14           “(A) IN GENERAL.—The term ‘solar en-  
15           ergy property’ means equipment which uses  
16           solar energy—

17                   “(i) to generate electricity, or

18                   “(ii) to provide hot water for use in a  
19           structure.

20           “(B) ELECTED SOLAR HOT WATER PROP-  
21           ERTY.—

22           “(i) IN GENERAL.—The term ‘elected  
23           solar hot water property’ means property  
24           which is solar energy property by reason of  
25           subparagraph (A)(ii) and for which an

1 election under this subparagraph is in ef-  
2 fect.

3 “(ii) ELECTION.—For purposes of  
4 clause (i), a taxpayer may elect to treat  
5 property described in clause (i) as elected  
6 solar hot water property.

7 “(C) PHOTOVOLTAIC PROPERTY.—The  
8 term ‘photovoltaic property’ means solar energy  
9 property which uses a solar photovoltaic process  
10 to generate electricity.

11 “(D) SWIMMING POOLS, ETC., USED AS  
12 STORAGE MEDIUM.—The term ‘solar energy  
13 property’ shall not include a swimming pool,  
14 hot tub, or any other energy storage medium  
15 which has a function other than the function of  
16 such storage.

17 “(E) SOLAR PANELS.—No solar panel or  
18 other property installed as a roof (or portion  
19 thereof) shall fail to be treated as solar energy  
20 property solely because it constitutes a struc-  
21 tural component of the structure on which it is  
22 installed.

23 “(2) TIER 2 ENERGY-EFFICIENT BUILDING  
24 PROPERTY.—The term ‘Tier 2 energy-efficient build-  
25 ing property’ means—

1           “(A) an electric heat pump water heater  
2           which yields an energy factor of at least 2.0 in  
3           the standard Department of Energy test proce-  
4           dure,

5           “(B) an electric heat pump which has a  
6           heating seasonal performance factor (HSPF) of  
7           at least 9, a seasonal energy efficiency ratio  
8           (SEER) of at least 15, and an energy efficiency  
9           ratio (EER) of at least 12.5,

10          “(C) a geothermal heat pump which—

11           “(i) in the case of a closed loop prod-  
12           uct, has an energy efficiency ratio (EER)  
13           of at least 14.1 and a heating coefficient of  
14           performance (COP) of at least 3.3,

15           “(ii) in the case of an open loop prod-  
16           uct, has an energy efficiency ratio (EER)  
17           of at least 16.2 and a heating coefficient of  
18           performance (COP) of at least 3.6, and

19           “(iii) in the case of a direct expansion  
20           (DX) product, has an energy efficiency  
21           ratio (EER) of at least 15 and a heating  
22           coefficient of performance (COP) of at  
23           least 3.5,

24          “(D) a central air conditioner which has a  
25          seasonal energy efficiency ratio (SEER) of at

1 least 15 and an energy efficiency ratio (EER)  
2 of at least 12.5, and

3 “(E) a natural gas, propane, or oil water  
4 heater which has an energy factor of at least  
5 0.80.

6 “(3) TIER 1 ENERGY-EFFICIENT BUILDING  
7 PROPERTY.—The term ‘Tier 1 energy-efficient build-  
8 ing property’ means—

9 “(A) an electric heat pump which has a  
10 heating system performance factor (HSPF) of  
11 at least 7.5, a cooling seasonal energy efficiency  
12 ratio (SEER) of at least 13.5, and an energy  
13 efficiency ratio (EER) of at least 11.5,

14 “(B) a central air conditioner which has a  
15 cooling seasonal energy efficiency ratio (SEER)  
16 of at least 13.5 and an energy efficiency ratio  
17 (EER) of at least 11.5,

18 “(C) a natural gas, propane, or oil water  
19 heater which has an energy factor of at least  
20 0.65, and

21 “(D) an oil, natural gas, or propane fur-  
22 nace or hot water boiler which achieves at least  
23 95 percent annual fuel utilization efficiency  
24 (AFUE).

1           “(4) ADVANCED MAIN AIR CIRCULATING FAN.—

2           The term ‘advanced main air circulating fan’ means  
3           a fan used in a natural gas, propane, or oil furnace  
4           originally placed in service by the taxpayer during  
5           the taxable year, including a fan which uses a  
6           brushless permanent magnet motor or another type  
7           of motor which achieves similar or higher efficiency  
8           at full and half speed, as determined by the Sec-  
9           retary.

10          “(e) ENERGY EFFICIENT COMMERCIAL BUILDING  
11          PROPERTY DEDUCTION.—

12                 “(1) DEDUCTION ALLOWED.—For purposes of  
13                 subsection (a)—

14                         “(A) IN GENERAL.—The energy efficient  
15                         commercial building property deduction deter-  
16                         mined under this subsection is an amount equal  
17                         to energy efficient commercial building property  
18                         expenditures made by a taxpayer for the tax-  
19                         able year.

20                         “(B) MAXIMUM AMOUNT OF DEDUC-  
21                         TION.—Except as otherwise provided in this  
22                         subsection, the amount of energy efficient com-  
23                         mercial building property expenditures taken  
24                         into account under subparagraph (A) shall not  
25                         exceed an amount equal to the product of—

1 “(i) \$2.25, and

2 “(ii) the square footage of the build-  
3 ing with respect to which the expenditures  
4 are made.

5 “(C) YEAR DEDUCTION ALLOWED.—The  
6 deduction under subparagraph (A) shall be al-  
7 lowed in the taxable year in which the construc-  
8 tion, reconstruction, or erection of the building  
9 is completed.

10 “(2) ENERGY EFFICIENT COMMERCIAL BUILD-  
11 ING PROPERTY EXPENDITURES.—For purposes of  
12 this subsection, the term ‘energy efficient commer-  
13 cial building property expenditures’ means an  
14 amount paid or incurred for energy efficient com-  
15 mercial building property installed on or in connec-  
16 tion with new construction, reconstruction, or erec-  
17 tion of property—

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

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

22 “(C) the construction, reconstruction, or  
23 erection of which is completed by the taxpayer.

24 Such property includes all residential rental prop-  
25 erty, including low-rise multifamily structures and

1 single family housing property which is not within  
2 the scope of ASHRAE Standard 90.1–2001 (de-  
3 scribed in paragraph (3)). Such term includes ex-  
4 penditures for labor costs properly allocable to the  
5 onsite preparation, assembly, or original installation  
6 of the property.

7 “(3) ENERGY EFFICIENT COMMERCIAL BUILD-  
8 ING PROPERTY.—For purposes of paragraph (2)—

9 “(A) IN GENERAL.—The term ‘energy effi-  
10 cient commercial building property’ means any  
11 building property which reduces total annual  
12 energy and power costs with respect to the  
13 lighting, heating, cooling, ventilation, and hot  
14 water supply systems of the building by at least  
15 50 percent in comparison to a reference build-  
16 ing which meets the requirements of ASHRAE  
17 Standard 90.1–2001 of the American Society of  
18 Heating, Refrigerating, and Air Conditioning  
19 Engineers and the Illuminating Engineering So-  
20 ciety of North America using methods of cal-  
21 culation under subparagraph (B) and certified  
22 by qualified professionals as provided under  
23 paragraph (6).

24 “(B) METHODS OF CALCULATION.—The  
25 Secretary, in consultation with the Secretary of

1 Energy, shall promulgate regulations which de-  
2 scribe in detail methods for calculating and  
3 verifying energy and power consumption and  
4 cost, based on the provisions of the 2001 Cali-  
5 fornia Nonresidential Alternative Calculation  
6 Method Approval Manual or, in the case of resi-  
7 dential property, the 2001 California Residen-  
8 tial Alternative Calculation Method Approval  
9 Manual. These regulations shall meet the fol-  
10 lowing requirements:

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

1           “(ii) The calculational methodology  
2 shall require that compliance be dem-  
3 onstrated for a whole building. If some sys-  
4 tems of the building, such as lighting, are  
5 designed later than other systems of the  
6 building, the method shall provide that 1  
7 of the following shall apply:

8                   “(I) The expenditures taken into  
9 account under paragraph (1) shall not  
10 occur until the date designs for all en-  
11 ergy-using systems of the building are  
12 completed.

13                   “(II) The energy performance of  
14 all systems and components not yet  
15 designed shall be assumed to comply  
16 minimally with the requirements of  
17 such ASHRAE Standard 90.1–2001.

18                   “(III) The expenditures taken  
19 into account under paragraph (1)  
20 shall be a fraction of such expendi-  
21 tures based on the energy cost savings  
22 performance of less than all energy-  
23 using systems in accordance with  
24 clause (iii) and shall be limited to

1                   \$0.75 per square foot for each of the  
2                   energy-using systems.

3                   “(iii) The expenditures in connection  
4                   with the design of subsystems in the build-  
5                   ing, such as the envelope, the heating, ven-  
6                   tilation, air conditioning and water heating  
7                   system, and the lighting system, and the  
8                   limitation under paragraph (2), shall be al-  
9                   located to the appropriate building sub-  
10                  system based on a demonstration of com-  
11                  pliance with system-specific energy cost  
12                  savings targets established in regulations  
13                  promulgated by the Secretary of Energy  
14                  which are equivalent, using the calculation  
15                  methodology, to the whole building require-  
16                  ment of 50 percent savings.

17                  “(iv) The calculational methods under  
18                  this subparagraph need not comply fully  
19                  with section 11 of such ASHRAE Stand-  
20                  ard 90.1–2001.

21                  “(v) The calculational methods shall  
22                  be fuel neutral, such that the same energy  
23                  efficiency features shall qualify a building  
24                  for the deduction under this subsection re-

1           gardless of whether the heating source is a  
2           gas or oil furnace or an electric heat pump.

3           “(vi) The calculational methods shall  
4           provide appropriate calculated energy sav-  
5           ings for design methods and technologies  
6           not otherwise credited in either such  
7           ASHRAE Standard 90.1–2001 or in the  
8           2001 California Nonresidential Alternative  
9           Calculation Method Approval Manual, in-  
10          cluding the following:

11                   “(I) Natural ventilation.

12                   “(II) Evaporative cooling.

13                   “(III) Automatic lighting controls  
14                   such as occupancy sensors, photocells,  
15                   and timeclocks.

16                   “(IV) Daylighting.

17                   “(V) Designs utilizing semi-con-  
18                   ditioned spaces which maintain ade-  
19                   quate comfort conditions without air  
20                   conditioning or without heating.

21                   “(VI) Improved fan system effi-  
22                   ciency, including reductions in static  
23                   pressure.

24                   “(VII) Advanced unloading  
25                   mechanisms for mechanical cooling,

1 such as multiple or variable speed  
2 compressors.

3 “(VIII) The calculational meth-  
4 ods may take into account the extent  
5 of commissioning in the building, and  
6 allow the taxpayer to take into ac-  
7 count measured performance which  
8 exceeds typical performance.

9 “(IX) On-site generation of elec-  
10 tricity, including combined heat and  
11 power systems, fuel cells, and renew-  
12 able energy generation such as solar  
13 energy.

14 “(C) COMPUTER SOFTWARE.—

15 “(i) IN GENERAL.—Any calculation  
16 under this paragraph shall be prepared by  
17 qualified computer software.

18 “(ii) QUALIFIED COMPUTER SOFT-  
19 WARE.—For purposes of this subpara-  
20 graph, the term ‘qualified computer soft-  
21 ware’ means software—

22 “(I) for which the software de-  
23 signer has certified that the software  
24 meets all procedures and detailed  
25 methods for calculating energy and

1 power consumption and costs as re-  
2 quired by the Secretary,

3 “(II) which provides such forms  
4 as required to be filed by the Sec-  
5 retary in connection with energy effi-  
6 ciency of property and the deduction  
7 allowed under this subsection, and

8 “(III) which provides a notice  
9 form which documents the energy effi-  
10 ciency features of the building and its  
11 projected annual energy costs.

12 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC  
13 PROPERTY.—In the case of energy efficient commer-  
14 cial building property installed on or in public prop-  
15 erty, the Secretary shall promulgate a regulation to  
16 allow the allocation of the deduction to the person  
17 primarily responsible for designing the property in  
18 lieu of the public entity which is the owner of such  
19 property. Such person shall be treated as the tax-  
20 payer for purposes of this subsection.

21 “(5) NOTICE TO OWNER.—The qualified indi-  
22 vidual shall provide an explanation to the owner of  
23 the building regarding the energy efficiency features  
24 of the building and its projected annual energy costs

1 as provided in the notice under paragraph  
2 (3)(C)(ii)(III).

3 “(6) CERTIFICATION.—

4 “(A) IN GENERAL.—Except as provided in  
5 this paragraph, the Secretary shall prescribe  
6 procedures for the inspection and testing for  
7 compliance of buildings which are comparable,  
8 given the difference between commercial and  
9 residential buildings, to the requirements in the  
10 Mortgage Industry National Accreditation Pro-  
11 cedures for Home Energy Rating Systems.

12 “(B) QUALIFIED INDIVIDUALS.—Individ-  
13 uals qualified to determine compliance shall be  
14 only those individuals who are recognized by an  
15 organization certified by the Secretary for such  
16 purposes. The Secretary may qualify a Home  
17 Ratings Systems Organization, a local building  
18 code agency, a State or local energy office, a  
19 utility, or any other organization which meets  
20 the requirements prescribed under this section.

21 “(C) PROFICIENCY OF QUALIFIED INDIVID-  
22 UALS.—The Secretary shall consult with non-  
23 profit organizations and State agencies with ex-  
24 pertise in energy efficiency calculations and in-  
25 spections to develop proficiency tests and train-

1 ing programs to qualify individuals to determine  
2 compliance.

3 “(f) ENERGY EFFICIENT RESIDENTIAL RENTAL  
4 BUILDING PROPERTY DEDUCTION.—

5 “(1) DEDUCTION ALLOWED.—For purposes of  
6 subsection (a)—

7 “(A) IN GENERAL.—The energy efficient  
8 residential rental building property deduction  
9 determined under this subsection is an amount  
10 equal to energy efficient residential rental build-  
11 ing property expenditures made by a taxpayer  
12 for the taxable year.

13 “(B) MAXIMUM AMOUNT OF DEDUC-  
14 TION.—The amount of energy efficient residen-  
15 tial rental building property expenditures taken  
16 into account under subparagraph (A) with re-  
17 spect to each dwelling unit shall not exceed the  
18 amount specified in the following table:

<b>“In the case of:</b>	<b>Deduction amount:</b>
30-percent property .....	\$600
50-percent property .....	\$1,500.

19 “(C) YEAR DEDUCTION ALLOWED.—The  
20 deduction under subparagraph (A) shall be al-  
21 lowed in the taxable year in which the construc-  
22 tion, reconstruction, erection, or rehabilitation  
23 of the property is completed.

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

4           “(A) IN GENERAL.—The term ‘energy effi-  
5 cient residential rental building property ex-  
6 penditures’ means an amount paid or incurred  
7 in connection with construction, reconstruction,  
8 erection, or rehabilitation of energy efficient  
9 residential rental building property—

10           “(i) for which depreciation is allow-  
11 able under section 167,

12           “(ii) which is located in the United  
13 States, and

14           “(iii) the construction, reconstruction,  
15 erection, or rehabilitation of which is com-  
16 pleted by the taxpayer.

17           Such term includes expenditures for labor costs  
18 properly allocable to the onsite preparation, as-  
19 sembly, or original installation of the property.

20           “(B) ENERGY EFFICIENT RESIDENTIAL  
21 RENTAL BUILDING PROPERTY.—

22           “(i) IN GENERAL.—The term ‘energy  
23 efficient residential rental building prop-  
24 erty’ means any property which reduces  
25 total annual energy and power costs with

1           respect to heating and cooling of the build-  
2           ing by at least 50 percent in the case of  
3           50-percent property or at least 30 percent  
4           in the case of 30-percent property in com-  
5           parison to the projected energy cost of  
6           such property without such expenditures.  
7           Such comparison shall be made using the  
8           procedures under clause (ii).

9           “(ii) PROCEDURES.—

10           “(I) IN GENERAL.—For purposes  
11           of clause (i), energy usage and costs  
12           shall be demonstrated either by com-  
13           ponent-based compliance or perform-  
14           ance-based compliance.

15           “(II) COMPONENT-BASED COM-  
16           PLIANCE.—Component-based compli-  
17           ance shall be demonstrated if all of  
18           the components of the dwelling unit  
19           comply with the requirements of pre-  
20           scriptive packages established by the  
21           Secretary of Energy, in consultation  
22           with the Administrator of the Envi-  
23           ronmental Protection Agency, such  
24           that the buildings which use such ap-  
25           proach achieve energy cost reductions

1 equivalent to the results of using per-  
2 formance-based compliance under sub-  
3 clause (III).

4 “(III) PERFORMANCE-BASED  
5 COMPLIANCE.—Performance-based  
6 compliance shall be demonstrated if  
7 the 30 percent or 50 percent energy  
8 cost savings for heating and cooling,  
9 as applicable, are met with respect to  
10 a dwelling unit when compared to the  
11 original condition of the dwelling unit.

12 “(IV) COMPUTER SOFTWARE.—  
13 Computer software shall be used in  
14 support of performance-based compli-  
15 ance under subclause (III) and such  
16 software shall meet all of the proce-  
17 dures and methods for calculating en-  
18 ergy savings reductions which are pro-  
19 mulgated by the Secretary of Energy.  
20 Such regulations on the specifications  
21 for software and verification protocols  
22 shall be based on the 2001 California  
23 Residential Alternative Calculation  
24 Method Approval Manual.

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

20                  “(VI) APPROVAL OF SOFTWARE  
21                  SUBMISSIONS.—The Secretary shall  
22                  approve software submissions which  
23                  comply with the requirements of sub-  
24                  clause (IV).

1                   “(VII) PROCEDURES FOR IN-  
2                   SPECTION AND TESTING OF HOMES.—  
3                   The Secretary shall ensure that proce-  
4                   dures for the inspection and testing  
5                   for compliance comply with the cal-  
6                   culation requirements under subclause  
7                   (IV) of this clause and clause (iv).

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

22                  “(iv) COMPLIANCE.—

23                  “(I) IN GENERAL.—The Sec-  
24                  retary, in consultation with the Sec-  
25                  retary of Energy, shall establish re-

1            requirements for certification and com-  
2            pliance procedures after examining  
3            the requirements for energy consult-  
4            ants and home energy ratings pro-  
5            viders specified by the Mortgage In-  
6            dustry National Home Energy Rating  
7            Standards.

8            “(II) INDIVIDUALS QUALIFIED  
9            TO DETERMINE COMPLIANCE.—Indi-  
10            viduals qualified to determine compli-  
11            ance shall be only those individuals  
12            who are recognized by an organization  
13            certified by the Secretary for such  
14            purposes. The Secretary may qualify a  
15            home energy rating systems organiza-  
16            tion, a local building code agency, a  
17            State or local energy office, a utility,  
18            or any other organization which meets  
19            the requirements prescribed under  
20            this subsection.

21            “(C) ALLOCATION OF DEDUCTION FOR  
22            PUBLIC PROPERTY.—In the case of energy effi-  
23            cient residential rental building property which  
24            is public property, the Secretary shall promul-  
25            gate a regulation to allow the allocation of the

1           deduction to the person primarily responsible  
2           for designing the improvements to the property  
3           in lieu of the public entity which is the owner  
4           of such property. Such person shall be treated  
5           as the taxpayer for purposes of this subsection.

6           “(g) SPECIAL RULES.—For purposes of this sec-  
7           tion—

8           “(1) BASIS REDUCTION.—For purposes of this  
9           subtitle, if a deduction is allowed under this section  
10          with respect to any property, the basis of such prop-  
11          erty shall be reduced by the amount of the deduction  
12          so allowed.

13          “(2) DOUBLE BENEFIT.—Property which  
14          would, but for this paragraph, be eligible for deduc-  
15          tion under more than one provision of this section  
16          shall be eligible only under one such provision, the  
17          provision specified by the taxpayer.

18          “(h) REGULATIONS.—The Secretary shall promul-  
19          gate such regulations as necessary to take into account  
20          new technologies regarding energy efficiency and renew-  
21          able energy for purposes of determining energy efficiency  
22          and savings under this section.

23          “(i) TERMINATION.—This section shall not apply  
24          with respect to—

1           “(1) any energy property placed in service after  
2           December 31, 2008 (December 31, 2005, in the case  
3           of Tier I energy-efficient building property),

4           “(2) any energy efficient commercial building  
5           property expenditures in connection with property—

6                   “(A) the plans for which are not certified  
7                   under subsection (e)(6) on or before December  
8                   31, 2008, and

9                   “(B) the construction, reconstruction, or  
10                  erection of which is not completed on or before  
11                  December 31, 2010, and

12          “(3) any energy efficient residential rental  
13          building property expenditures in connection with  
14          property—

15                  “(A) placed in service after December 31,  
16                  2008, or

17                  “(B) the construction, reconstruction, erec-  
18                  tion, or rehabilitation of which is not completed  
19                  on or before December 31, 2008.”.

20          (b) CONFORMING AMENDMENTS.—

21                  (1) Section 48(a)(3)(A) of the Internal Revenue  
22          Code of 1986 is amended to read as follows:

23                          “(A) which is equipment used to produce,  
24                          distribute, or use energy derived from a geo-  
25                          thermal deposit (within the meaning of section

1           613(e)(2)), but only, in the case of electricity  
2           generated by geothermal power, up to (but not  
3           including) the electrical transmission stage.”.

4           (2) Subparagraph (B) of section 168(e)(3) of  
5           such Code is amended—

6                   (A) in clause (vi)(I)—

7                           (i) by striking “section 48(a)(3)” and  
8                           inserting “section 199(d)(1)”, and

9                           (ii) by striking “clause (i)” and in-  
10                          serting “such subparagraph (A)”, and

11                   (B) in the last sentence, by striking “sec-  
12                   tion 48(a)(3)” and inserting “section  
13                   199(c)(3)”.

14           (3) Section 1016(a) of such Code is amended  
15           by striking “and” at the end of paragraph (27), by  
16           striking the period at the end of paragraph (28) and  
17           inserting “, and”, and by inserting the following new  
18           paragraph:

19                   “(29) for amounts allowed as a deduction under  
20                   section 199(a).”.

21           (c) CLERICAL AMENDMENT.—The table of sections  
22           for part VI of subchapter B of chapter 1 of the Internal  
23           Revenue Code of 1986 is amended by adding at the end  
24           the following new item:

                  “Sec. 199. Energy property deduction.”.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 2 are authorized to be appropriated to the Department of  
 3 Energy out of amounts not already appropriated such  
 4 sums as necessary to carry out this section.

5 (e) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to taxable years beginning after  
 7 December 31, 2002.

8 **SEC. 3. CREDIT FOR CONSTRUCTION OF NEW ENERGY EF-**  
 9 **FICIENT HOME.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-  
 11 chapter A of chapter 1 of the Internal Revenue Code of  
 12 1986 (relating to business related credits) is amended by  
 13 adding at the end the following new section:

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

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

21 “(b) LIMITATIONS.—

22 “(1) MAXIMUM CREDIT.—

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

1                   “(i) in the case of a 30-percent home,  
2                   \$600, and

3                   “(ii) in the case of a 50-percent home,  
4                   \$2,000.

5                   “(B) 30- OR 50-PERCENT HOME.—For pur-  
6                   poses of subparagraph (A)—

7                   “(i) 30-PERCENT HOME.—The term  
8                   ‘30-percent home’ means a qualifying new  
9                   home which is certified to have a projected  
10                  level of annual heating and cooling energy  
11                  consumption, measured in terms of aver-  
12                  age annual energy cost to the homeowner,  
13                  which is at least 30 percent less than the  
14                  annual level of heating and cooling energy  
15                  consumption of the standard design ref-  
16                  erence home.

17                  “(ii) 50-PERCENT HOME.—The term  
18                  ‘50-percent home’ means a qualifying new  
19                  home which is certified to have a projected  
20                  level of annual heating and cooling energy  
21                  consumption, measured in terms of aver-  
22                  age annual energy cost to the homeowner,  
23                  which is at least 50 percent less than the  
24                  annual level of heating and cooling energy

1 consumption of the standard design ref-  
2 erence home.

3 “(C) PRIOR CREDIT AMOUNTS ON SAME  
4 HOME TAKEN INTO ACCOUNT.—If a credit was  
5 allowed under subsection (a) with respect to a  
6 qualifying new home in 1 or more prior taxable  
7 years, the amount of the credit otherwise allow-  
8 able for the taxable year with respect to such  
9 home shall not exceed the amount under clause  
10 (i) or (ii) of subparagraph (A) (as the case may  
11 be), reduced by the sum of the credits allowed  
12 under subsection (a) with respect to the home  
13 for all prior taxable years.

14 “(2) COORDINATION WITH REHABILITATION  
15 AND ENERGY CREDITS.—For purposes of this sec-  
16 tion—

17 “(A) the basis of any property referred to  
18 in subsection (a) shall be reduced by that por-  
19 tion of the basis of any property which is attrib-  
20 utable to the rehabilitation credit (as deter-  
21 mined under section 47(a)) or to the energy  
22 percentage of energy property (as determined  
23 under section 48(a)), and

1           “(B) expenditures taken into account  
2           under either section 47 or 48(a) shall not be  
3           taken into account under this section.

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

5           “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-  
6           ble contractor’ means the person who constructed  
7           the qualifying new home, or in the case of a manu-  
8           factured home which conforms to Federal Manufac-  
9           tured Home Construction and Safety Standards (24  
10          C.F.R. 3280), the manufactured home producer of  
11          such home.

12          “(2) ENERGY EFFICIENT PROPERTY.—

13                 “(A) IN GENERAL.—The term ‘energy effi-  
14                 cient property’ means any energy efficient  
15                 building envelope component, and any energy  
16                 efficient heating or cooling equipment, and any  
17                 other materials and systems which are specifi-  
18                 cally designed to reduce heat loss or gain or the  
19                 heating or cooling energy use of a dwelling,  
20                 which can, individually or in combination with  
21                 other components, meet the requirements of  
22                 this section.

23                 “(B) BUILDING ENVELOPE COMPONENT.—

24                 The term ‘building envelope component’  
25                 means—

1           “(i) any insulation material or system  
2           which is specifically and primarily designed  
3           to reduce the heat loss or gain of a quali-  
4           fying new home when installed in or on  
5           such home, and

6           “(ii) exterior windows (including sky-  
7           lights) and doors.

8           “(3) QUALIFYING NEW HOME.—The term  
9           ‘qualifying new home’ means a dwelling—

10           “(A) located in the United States,

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

14           “(C) the first use of which after construc-  
15           tion is as a principal residence (within the  
16           meaning of section 121, determined without re-  
17           gard to ownership).

18           “(4) STANDARD DESIGN REFERENCE HOME.—  
19           The term ‘standard design reference home’ means a  
20           dwelling which conforms with the standards of chap-  
21           ter 4 of the 2000 International Energy Conservation  
22           Code of the International Code Council and the min-  
23           imum equipment efficiency standards promulgated  
24           by the Department of Energy under the National  
25           Appliance Energy Conservation Act.

1           “(5) ENERGY EFFICIENT REFERENCE HOME.—  
2           The term ‘energy efficient reference home’ means a  
3           design of a dwelling which uses the same heating  
4           fuel type as the proposed design, as required by the  
5           Department of Energy under the National Appliance  
6           Energy Conservation Act and which achieves, on av-  
7           erage over fuel type and home geometry, the re-  
8           quired 30 percent or 50 percent reductions in annual  
9           energy cost as calculated using the procedures under  
10          subsection (d)(1)(C)(i).

11          “(6) CONSTRUCTION.—The term ‘construction’  
12          includes reconstruction, erection, and rehabilitation.

13          “(7) MANUFACTURED HOME INCLUDED.—The  
14          term ‘qualifying new home’ includes a manufactured  
15          home conforming to Federal Manufactured Home  
16          Construction and Safety Standards (24 C.F.R.  
17          3280).

18          “(d) CERTIFICATION.—

19                 “(1) METHOD OF CERTIFICATION.—

20                         “(A) IN GENERAL.—A certification de-  
21                         scribed in subsection (b)(1)(B) shall be deter-  
22                         mined either by a component-based method or  
23                         a performance-based method.

24                         “(B) COMPONENT-BASED METHOD.—A  
25                         component-based method is a method in which

1 compliance is achieved when all of the compo-  
2 nents of the home comply with the require-  
3 ments of prescriptive packages using the appli-  
4 cable technical energy efficiency specifications  
5 or ratings (including product labeling require-  
6 ments) for the energy efficient building envelope  
7 component or energy efficient heating or cooling  
8 equipment. The Secretary shall, in consultation  
9 with the Administrator of the Environmental  
10 Protection Agency, develop prescriptive compo-  
11 nent-based packages which are equivalent in en-  
12 ergy performance (when modeled with 50 per-  
13 cent of the windows of such packages facing  
14 west, 25 percent facing east, 12.5 percent fac-  
15 ing south, and 12.5 percent facing north) to  
16 properties which qualify under subparagraph  
17 (C).

18 “(C) PERFORMANCE-BASED METHOD.—

19 “(i) IN GENERAL.—A performance-  
20 based method is a method which calculates  
21 projected energy usage and cost reductions  
22 in the qualifying new home in relation to  
23 an energy efficient reference home—

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

1           “(II) constructed in accordance  
2           with the requirements for the applica-  
3           ble 30 percent or 50 percent energy  
4           efficient reference home.

5           “(ii) COMPUTER SOFTWARE.—

6           “(I) IN GENERAL.—Computer  
7           software shall be used in support of a  
8           performance-based method certifi-  
9           cation under clause (i). Such software  
10          shall meet procedures and methods  
11          for calculating energy and cost sav-  
12          ings in regulations promulgated by  
13          the Secretary of Energy. Such regula-  
14          tions on the specifications for software  
15          and verification protocols shall be  
16          based on the 2001 California Residen-  
17          tial Alternative Calculation Method  
18          Approval Manual.

19          “(II) APPROVAL OF SOFTWARE  
20          SUBMISSIONS.—The Secretary shall  
21          approve software submissions which  
22          comply with the calculation require-  
23          ments of subclause (I).

24          “(iii) PROCEDURES FOR INSPECTION  
25          AND TESTING OF HOMES.—The Secretary

1           shall ensure that procedures for the inspec-  
2           tion and testing for compliance comply  
3           with the calculation requirements under  
4           this section.

5           “(2) PROVIDER.—A certification described in  
6           subsection (b)(1)(B) shall be provided by an indi-  
7           vidual recognized by an organization designated by  
8           the Secretary for such purposes.

9           “(3) FORM.—

10           “(A) IN GENERAL.—A certification de-  
11           scribed in subsection (b)(1)(B) shall be made in  
12           writing in a manner that specifies in readily  
13           verifiable fashion the energy efficient building  
14           envelope components and energy efficient heat-  
15           ing or cooling equipment installed and their re-  
16           spective rated energy efficiency performance,  
17           and in the case of a performance-based method,  
18           accompanied by a written analysis documenting  
19           the proper application of a permissible energy  
20           performance calculation method to the specific  
21           circumstances of the qualifying new home.

22           “(B) FORM PROVIDED TO BUYER.—A form  
23           documenting the energy efficient building enve-  
24           lope components and energy efficient heating or  
25           cooling equipment installed and their rated en-

1           ergy efficiency performance shall be provided to  
2           the buyer of the qualifying new home. The form  
3           shall include labeled R-value for insulation  
4           products, NFRC-labeled U-factor and Solar  
5           Heat Gain Coefficient for windows, skylights,  
6           and doors, labeled AFUE ratings for furnaces  
7           and boilers, labeled HSPF ratings for electric  
8           heat pumps, and labeled SEER ratings for air  
9           conditioners.

10           “(C) RATINGS LABEL AFFIXED IN DWELL-  
11           ING.—A permanent label documenting the rat-  
12           ings in subparagraph (B) shall be affixed to the  
13           front of the electrical distribution panel of the  
14           qualifying new home, or shall be otherwise per-  
15           manently displayed in a readily inspectable loca-  
16           tion in such home.

17           “(4) REGULATIONS.—

18           “(A) IN GENERAL.—In prescribing regula-  
19           tions under this subsection for performance-  
20           based certification methods, the Secretary, after  
21           examining the requirements of the 2001 Cali-  
22           fornia Residential Alternative Calculation Meth-  
23           od Approval Manual, shall prescribe procedures  
24           for calculating annual energy usage and cost re-

1           ductions for heating and cooling and for the re-  
2           porting of the results. Such regulations shall—

3                   “(i) provide for fuel parity in the case  
4                   of both the component-based and the per-  
5                   formance-based approaches, and any soft-  
6                   ware used in support of either such ap-  
7                   proach,

8                   “(ii) require that any computer soft-  
9                   ware allow for the printing of the Federal  
10                  tax forms necessary for the credit under  
11                  this section and for the printing of forms  
12                  for disclosure to the homebuyer, and

13                  “(iii) establish the costs per unit of  
14                  energy and power, such as kilowatt hour,  
15                  kilowatt, gallon of fuel oil, and cubic foot  
16                  or Btu of natural gas, dependent on time  
17                  of usage.

18                  “(B) FUEL PARITY.—For purposes of sub-  
19                  paragraph (A)(i), the Secretary shall assure  
20                  fuel parity by requiring both the energy effi-  
21                  cient reference home and the prescriptive pack-  
22                  age under paragraph (1) to employ the same  
23                  envelope energy efficiency measures for a home  
24                  heated by a gas furnace as for a home heated  
25                  by an electric air source heat pump or by an oil

1 furnace or boiler; and, for equipment efficiency,  
2 to employ electric, oil, or gas equipment effi-  
3 ciency of corresponding efficiency improvement.  
4 Such determination of corresponding efficiency  
5 improvement shall be made on a linear scale be-  
6 tween the minimum standard equipment effi-  
7 ciency and the best available marketplace tech-  
8 nology efficiency as determined by the Sec-  
9 retary based upon the information provided by  
10 the Air Conditioning and Refrigeration Insti-  
11 tute (ARI) and the Gas Appliance Manufactur-  
12 ers Association (GAMA) guides for the respec-  
13 tive electric, oil, and natural gas equipment of  
14 such type (such as heating and cooling). For  
15 homes heated electrically, the baseline of the  
16 linear scale shall be the latest NAECA min-  
17 imum efficiency required for air-source heat  
18 pumps. For homes heated by direct combustion  
19 fossil fuels, the baseline of the linear scale shall  
20 be the latest NAECA minimum efficiency for  
21 furnaces.

22 “(C) TIME OF USAGE.—For purposes of  
23 subparagraph (A)(iii), time of usage costs shall  
24 be determined based on regional or State utility  
25 and fuel costs. Where a State has developed an-

1           nual energy usage and cost reduction proce-  
2           dures based on time of usage costs for use in  
3           the performance standards of the State’s build-  
4           ing energy code prior to the effective date of  
5           this section, the State may use those annual en-  
6           ergy usage and cost reduction procedures in  
7           lieu of those adopted by the Secretary.

8           “(D) PROVIDERS.—For purposes of para-  
9           graph (2), the Secretary shall establish require-  
10          ments for the designation of individuals based  
11          on the requirements for energy consultants and  
12          home energy raters specified by the Mortgage  
13          Industry National Home Energy Rating Stand-  
14          ards. The Secretary shall qualify an inde-  
15          pendent home energy rating system organiza-  
16          tion, a local building code agency, a State or  
17          local energy office, a utility, a manufactured  
18          home production inspection agency (IPIA), or  
19          any other organization which meets the require-  
20          ments prescribed under this section.

21          “(E) DETERMINATIONS OF COMPLI-  
22          ANCE.—A determination of compliance with re-  
23          spect to energy efficient property made for the  
24          purposes of this subsection shall be filed with  
25          the Secretary not later than 1 year after the

1 date of such determination and shall include the  
2 TIN of the certifier, the address of the building  
3 in compliance, and the identity of the person  
4 for whom such determination was performed.  
5 Determinations of compliance filed with the  
6 Secretary shall be available for inspection by  
7 the Secretary of Energy.

8 “(e) TERMINATION.—Subsection (a) shall apply to  
9 qualifying new homes purchased during the period begin-  
10 ning on the date of the enactment of this section and end-  
11 ing on December 31, 2005, for 30-percent homes and De-  
12 cember 31, 2008, for 50-percent homes.”.

13 (b) CREDIT MADE PART OF GENERAL BUSINESS  
14 CREDIT.—Section 38(b) of the Internal Revenue Code of  
15 1986 (relating to current year business credit) is amended  
16 by striking “plus” at the end of paragraph (14), by strik-  
17 ing the period at the end of paragraph (15) and inserting  
18 “, plus”, and by adding at the end the following new para-  
19 graph:

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

22 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of  
23 the Internal Revenue Code of 1986 (relating to certain  
24 expenses for which credits are allowable) is amended by  
25 adding at the end the following new subsection:

1       “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—  
2 No deduction shall be allowed for that portion of expenses  
3 for a qualifying new home otherwise allowable as a deduc-  
4 tion for the taxable year which is equal to the amount  
5 of the credit determined for such taxable year under sec-  
6 tion 45G(a).”.

7       (d) LIMITATION ON CARRYBACK.—Section 39(d) of  
8 the Internal Revenue Code of 1986 (relating to transi-  
9 tional rules) is amended by adding at the end the following  
10 new paragraph:

11               “(11) NO CARRYBACK OF NEW ENERGY EFFI-  
12               CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—  
13 No portion of the unused business credit for any  
14 taxable year which is attributable to the credit deter-  
15 mined under section 45G may be carried back to any  
16 taxable year ending on or before the date of the en-  
17 actment of section 45G.”.

18       (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
19 CREDITS.—Section 196(c) of the Internal Revenue Code  
20 of 1986 (defining qualified business credit) is amended by  
21 striking “and” at the end of paragraph (9), by striking  
22 the period at the end of paragraph (10) and inserting “,  
23 and”, and by adding at the end the following new para-  
24 graph:

1           “(11) the new energy efficient home credit de-  
2           termined under section 45G(a).”.

3           (f) CLERICAL AMENDMENT.—The table of sections  
4 for subpart D of part IV of subchapter A of chapter 1  
5 of the Internal Revenue Code of 1986 is amended by add-  
6 ing at the end the following new item:

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

7           (g) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years ending after the  
9 date of the enactment of this Act.

10 **SEC. 4. CREDIT FOR CERTAIN NONBUSINESS ENERGY**  
11 **PROPERTY.**

12           (a) IN GENERAL.—Subpart A of part IV of sub-  
13 chapter A of chapter 1 of the Internal Revenue Code of  
14 1986 (relating to nonrefundable personal credits) is  
15 amended by inserting after section 25B the following new  
16 section:

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

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

22                   “(1) the amount determined under subsection  
23           (b) for each qualified energy property of the tax-  
24           payer placed in service during such taxable year, and

1           “(2) so much of the credit amount specified in  
 2           the following table which does not exceed the ex-  
 3           penditures made by the taxpayer in connection with  
 4           the construction, reconstruction, erection, or reha-  
 5           bilitation of a dwelling unit of the taxpayer which re-  
 6           sults in the unit being a highly energy-efficient prin-  
 7           cipal residence:

<b>“Highly energy-efficient principal residence:</b>	<b>Credit amount:</b>
30-percent property .....	\$200
50-percent property .....	\$500.

8 For purposes of paragraph (2), the expenditures may in-  
 9 clude labor costs properly allocable to the onsite prepara-  
 10 tion, assembly, or original installation of such property.

11           “(b) AMOUNT FOR QUALIFIED ENERGY PROP-  
 12 ERTY.—

13           “(1) RESIDENTIAL ENERGY PROPERTY EX-  
 14 PENDITURES.—Except as provided in paragraph (2),  
 15 the amount determined under this subsection for the  
 16 taxable year for each item of qualified energy prop-  
 17 erty shall equal the amount of residential energy  
 18 property expenditures made by the taxpayer with re-  
 19 spect to such property during such taxable year.

20           “(2) SOLAR HOT WATER PROPERTY; PHOTO-  
 21 VOLTAIC PROPERTY.—

22           “(A) IN GENERAL.—In the case of solar  
 23 hot water property and photovoltaic property,

1 the amount determined under this subsection  
 2 for the taxable year shall equal the amount  
 3 specified for such property in the following  
 4 table:

Description of property:	Allowable amount is:
Elected solar hot water property .....	35¢ per each kwh/year of sav- ings.
Photovoltaic property .....	\$1.50 per peak watt.

5 “(B) ELECTED SOLAR HOT WATER PROP-  
 6 ERTY.—In the case of elected solar hot water  
 7 property (as defined in section 199(d)(1)(B)),  
 8 the taxpayer may elect to substitute ‘\$7 per an-  
 9 nual Therm of natural gas savings’ for ‘35¢ per  
 10 each kwh/year of savings’ in the table contained  
 11 in subparagraph (A).

12 “(3) MAXIMUM AMOUNT.—In the case of prop-  
 13 erty described in the following table, the amount of  
 14 expenditures taken into account under paragraph  
 15 (1) and the amount determined under paragraph (2)  
 16 for the taxable year for each item of qualified energy  
 17 property with respect to a dwelling unit shall not ex-  
 18 ceed the amount specified for such property in such  
 19 table:

“Description of property item:	Maximum allowable credit amount is:
Tier 2 energy-efficient building property .....	\$300.
Advanced main air circulating fan .....	\$50.

<b>“Description of property item:</b>	<b>Maximum allowable credit amount is:</b>
Tier 1 energy-efficient building property (other than an advanced main air circulating fan).	\$150.
Solar hot water property .....	\$1,000.
Photovoltaic property .....	\$6,000.

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

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

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

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

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

13          “(2) QUALIFIED ENERGY PROPERTY.—

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

16                               “(i) energy-efficient building property,

17                               “(ii) solar hot water property, and

18                               “(iii) photovoltaic property.

19                       “(B) SWIMMING POOL, ETC., USED AS  
20 STORAGE MEDIUM; SOLAR PANELS.—For pur-  
21 poses of this paragraph, the provisions of sub-

1 paragraphs (D) and (E) section 199(d)(1) shall  
2 apply.

3 “(C) REQUIRED STANDARDS.—Property  
4 described under subparagraph (A) shall meet  
5 the performance and quality standards and cer-  
6 tification standards of paragraphs (1)(D) and  
7 (2) of section 199(e).

8 “(3) ENERGY-EFFICIENT BUILDING PROP-  
9 erty.—The term ‘energy-efficient building property’  
10 has the same meaning given the terms ‘Tier 2 en-  
11 ergy-efficient property’, ‘Tier 1 energy-efficient  
12 property’, and ‘advanced main air circulating fan’ in  
13 paragraphs (2), (3), and (4) of section 199(d), re-  
14 spectively.

15 “(4) SOLAR HOT WATER PROPERTY.—The term  
16 ‘solar hot water property’ means property which,  
17 when installed in connection with a structure, uses  
18 solar energy for the purpose of providing hot water  
19 for use within such structure and the performance  
20 of which is determined in accordance with section  
21 199(e)(2)(A).

22 “(5) PHOTOVOLTAIC PROPERTY.—The term  
23 ‘photovoltaic property’ has the same meaning given  
24 such term in section 199(d)(1)(C).

1           “(6) HIGHLY ENERGY-EFFICIENT PRINCIPAL  
2 RESIDENCE.—

3           “(A) IN GENERAL.—Property is a highly  
4 energy-efficient principal residence if—

5           “(i) such property is located in the  
6 United States,

7           “(ii) the property is used as a prin-  
8 cipal residence, and

9           “(iii) such property is certified as  
10 being 50-percent property or 30-percent  
11 property.

12          “(B) PRINCIPAL RESIDENCE.—

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

16           “(I) no ownership requirement  
17 shall be imposed, and

18           “(II) the period for which a  
19 building is treated as used as a prin-  
20 cipal residence shall also include the  
21 60-day period ending on the 1st day  
22 on which it would (but for this sub-  
23 paragraph) first be treated as used as  
24 a principal residence.

1           “(ii) MANUFACTURED HOUSING.—The  
2 term ‘residence’ shall include a dwelling  
3 unit which is a manufactured home con-  
4 forming to Federal Manufactured Home  
5 Construction and Safety Standards (24  
6 C.F.R. 3280).

7           “(C) 50- OR 30-PERCENT PROPERTY.—

8           “(i) IN GENERAL.—For purposes of  
9 subparagraph (A), property is 50-percent  
10 property or 30-percent property if the pro-  
11 jected heating and cooling energy usage of  
12 such property, measured in terms of aver-  
13 age annual energy cost to taxpayer, is re-  
14 duced by 50 percent, or 30 percent, respec-  
15 tively, in comparison to the energy cost of  
16 such property if expenditures made by the  
17 taxpayer with respect to energy efficient  
18 improvements to such property were not  
19 made. Such comparison shall be deter-  
20 mined using the procedures under clause  
21 (ii).

22           “(ii) PROCEDURES.—

23           “(I) IN GENERAL.—For purposes  
24 of clause (i), energy usage shall be  
25 demonstrated either by component-

1 based compliance or performance-  
2 based compliance.

3 “(II) COMPONENT-BASED COM-  
4 PLIANCE.—Component-based compli-  
5 ance shall be demonstrated if all of  
6 the components of the dwelling unit  
7 comply with the requirements of pre-  
8 scriptive packages established by the  
9 Secretary of Energy, in consultation  
10 with the Administrator of the Envi-  
11 ronmental Protection Agency, such  
12 that the buildings which use this  
13 method achieve energy cost reductions  
14 equivalent to the results using the  
15 performance-based compliance method  
16 under subclause (III).

17 “(III) PERFORMANCE-BASED  
18 COMPLIANCE.—Performance-based  
19 compliance shall be demonstrated if  
20 the 30 percent or the 50 percent en-  
21 ergy cost savings for heating and cool-  
22 ing, as applicable, are met with re-  
23 spect to a dwelling unit when com-  
24 pared to the original condition of the  
25 dwelling unit.

1                   “(IV) COMPUTER SOFTWARE.—  
2                   Computer software shall be used in  
3                   support of performance-based compli-  
4                   ance under subclause (III) and such  
5                   software shall meet all of the proce-  
6                   dures and methods for calculating en-  
7                   ergy savings reductions which are pro-  
8                   mulgated by the Secretary of Energy.  
9                   Such regulations on the specifications  
10                  for software and verification protocols  
11                  shall be based on the 2001 California  
12                  Residential Alternative Calculation  
13                  Method Approval Manual.

14                  “(V) CALCULATION REQUIRE-  
15                  MENTS.—In calculating tradeoffs and  
16                  energy performance, the regulations  
17                  shall prescribe the costs per unit of  
18                  energy and power, such as kilowatt  
19                  hour, kilowatt, gallon of fuel oil, and  
20                  cubic foot or Btu of natural gas,  
21                  which may be dependent on time of  
22                  usage. If a State has developed an-  
23                  nual energy usage and cost reduction  
24                  procedures based on time of usage  
25                  costs for use in the performance

1 standards of the State’s building en-  
2 ergy code before the effective date of  
3 this section, the State may use those  
4 annual energy usage and cost reduc-  
5 tion procedures in lieu of those adopt-  
6 ed by the Secretary.

7 “(VI) APPROVAL OF SOFTWARE  
8 SUBMISSIONS.—The Secretary shall  
9 approve software submissions which  
10 comply with the calculation require-  
11 ments of subclause (IV).

12 “(VII) PROCEDURES FOR IN-  
13 SPECTION AND TESTING OF DWELL-  
14 ING UNITS.—The Secretary shall en-  
15 sure that procedures for the inspec-  
16 tion and testing for compliance com-  
17 ply with the calculation requirements  
18 under subclause (IV) and subsection  
19 (d)(2).

20 “(d) SPECIAL RULES.—For purposes of this sec-  
21 tion—

22 “(1) DETERMINATIONS OF COMPLIANCE.—A  
23 determination of compliance made for the purposes  
24 of this section shall be filed with the Secretary with-  
25 in 1 year of the date of such determination and shall

1 include the TIN of the certifier, the address of the  
2 building in compliance, and the identity of the per-  
3 son for whom such determination was performed.  
4 Determinations of compliance filed with the Sec-  
5 retary shall be available for inspection by the Sec-  
6 retary of Energy.

7 “(2) COMPLIANCE.—

8 “(A) IN GENERAL.—The Secretary, in con-  
9 sultation with the Secretary of Energy shall es-  
10 tablish requirements for certification and com-  
11 pliance procedures after examining the require-  
12 ments for energy consultants and home energy  
13 ratings providers specified by the Mortgage In-  
14 dustry National Home Energy Rating Stand-  
15 ards.

16 “(B) INDIVIDUALS QUALIFIED TO DETER-  
17 MINE COMPLIANCE.—Individuals qualified to  
18 determine compliance shall be only those indi-  
19 viduals who are recognized by an organization  
20 certified by the Secretary for such purposes.  
21 The Secretary may qualify a home energy rat-  
22 ing systems organization, a local building code  
23 agency, a State or local energy office, a utility,  
24 or any other organization which meets the re-  
25 quirements prescribed under this section.

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

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

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

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

1       tion 216) in a cooperative housing corporation (as  
2       defined in such section), such individual shall be  
3       treated as having made his tenant-stockholder's pro-  
4       portionate share (as defined in section 216(b)(3)) of  
5       any expenditures of such corporation and such credit  
6       shall be allocated pro rata to such individual.

7           “(5) CONDOMINIUMS.—

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

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

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

24          “(A) IN GENERAL.—Any expenditure oth-  
25      erwise qualifying as an expenditure under this

1 section shall not be treated as failing to so  
2 qualify merely because such expenditure was  
3 made with respect to 2 or more dwelling units.

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

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

16 “(8) COORDINATION WITH OTHER CREDITS.—  
17 Property which would, but for this paragraph, be eli-  
18 gible for credit under more than one provision of  
19 this section shall be eligible only under one such pro-  
20 vision, the provision specified by the taxpayer.

21 “(9) YEAR CREDIT ALLOWED.—The credit  
22 under subsection (a)(2) shall be allowed in the tax-  
23 able year in which the principal residence is certified  
24 as 50-percent property or 30-percent property.

1           “(10) WHEN EXPENDITURE MADE; AMOUNT OF  
2 EXPENDITURE.—

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

7           “(B) EXPENDITURES PART OF BUILDING  
8 CONSTRUCTION.—In the case of an expenditure  
9 in connection with the construction of a struc-  
10 ture, such expenditure shall be treated as made  
11 when the original use of the constructed struc-  
12 ture by the taxpayer begins.

13           “(11) PROPERTY FINANCED BY SUBSIDIZED  
14 ENERGY FINANCING.—

15           “(A) REDUCTION OF EXPENDITURES.—

16           “(i) IN GENERAL.—Except as pro-  
17 vided in subparagraph (C), for purposes of  
18 determining the amount of expenditures  
19 made by any individual with respect to any  
20 dwelling unit, there shall not be taken into  
21 account expenditures which are made from  
22 subsidized energy financing.

23           “(ii) SUBSIDIZED ENERGY FINANC-  
24 ING.—For purposes of clause (i), the term  
25 ‘subsidized energy financing’ has the same

1 meaning given such term in section  
2 48(a)(4)(C).

3 “(B) DOLLAR LIMITS REDUCED.—The dol-  
4 lar amounts in the table contained in subsection  
5 (b)(3) with respect to each property purchased  
6 for such dwelling unit for any taxable year of  
7 such taxpayer shall be reduced proportionately  
8 by an amount equal to the sum of—

9 “(i) the amount of the expenditures  
10 made by the taxpayer during such taxable  
11 year with respect to such dwelling unit and  
12 not taken into account by reason of sub-  
13 paragraph (A), and

14 “(ii) the amount of any Federal,  
15 State, or local grant received by the tax-  
16 payer during such taxable year which is  
17 used to make residential energy property  
18 expenditures with respect to the dwelling  
19 unit and is not included in the gross in-  
20 come of such taxpayer.

21 “(C) EXCEPTION FOR STATE PROGRAMS.—  
22 Subparagraphs (A) and (B) shall not apply to  
23 expenditures made with respect to property for  
24 which the taxpayer has received a loan, State

1 tax credit, or grant under any State energy pro-  
2 gram.

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

9 “(f) REGULATIONS.—The Secretary shall promulgate  
10 such regulations as necessary to take into account new  
11 technologies regarding energy efficiency and renewable en-  
12 ergy for purposes of determining energy efficiency and  
13 savings under this section.

14 “(g) TERMINATION.—

15 “(1) IN GENERAL.—Except as provided in para-  
16 graph (2), this section shall not apply with respect  
17 to any taxable years beginning after December 31,  
18 2008.

19 “(2) TIER 1 ENERGY-EFFICIENT BUILDING  
20 PROPERTY EXPENDITURES.—This section shall not  
21 apply to expenditures for tier 1 energy-efficient  
22 building property in taxable years beginning after  
23 December 31, 2005.”.

24 (b) CONFORMING AMENDMENTS.—

1           (1) Subsection (a) of section 1016 of the Inter-  
2           nal Revenue Code of 1986 as amended by section  
3           1(b)(3), is amended by striking “and” at the end of  
4           paragraph (28), by striking the period at the end of  
5           paragraph (29) and inserting “, and”, and by add-  
6           ing at the end the following new paragraph:

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

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

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

14           (c) EFFECTIVE DATES.—

15           (1) IN GENERAL.—Except as provided in para-  
16           graph (2), the amendments made by this section  
17           shall apply to expenditures made after December 31,  
18           2002.

19           (2) ENERGY EFFICIENT BUILDING PROPERTY  
20           USED IN A PRINCIPAL RESIDENCE.—In the case of  
21           energy efficient building property, as defined in sec-  
22           tion 25B(c) of the Internal Revenue Code of 1986,  
23           as added by subsection (a), the amendments made

1 by this section shall apply to expenditures made  
2 after March 31, 2003.

○