

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Internal Revenue Code of 1986 to provide tax incentives for increased investment in clean energy.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

S. 2012

To provide for the modernization of the energy policy of the United States, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. WYDEN (for himself, Mr. BENNET, Ms. CANTWELL, Mr. SCHUMER, Ms. STABENOW, Mr. MENENDEZ, Mr. CARPER, Mr. CARDIN, Mrs. MURRAY, Mr. DURBIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mrs. SHAHEEN, Mr. COONS, and Mr. SCHATZ) to the amendment (No. 2953) proposed by Ms. MURKOWSKI

Viz:

1 At the end, add the following:

2 **TITLE VI—INVESTING IN CLEAN**
3 **ENERGY**

4 **SEC. 6001. AMENDMENT OF 1986 CODE.**

5 Except as otherwise expressly provided, whenever in
6 this title an amendment or repeal is expressed in terms
7 of an amendment to, or repeal of, a section or other provi-
8 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **Subtitle A—Clean Energy Tax**
4 **Credits**

5 **SEC. 6011. CLEAN ENERGY PRODUCTION CREDIT.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 is amended by adding at the end
8 the following new section:

9 **“SEC. 45S. CLEAN ENERGY PRODUCTION CREDIT.**

10 “(a) AMOUNT OF CREDIT.—

11 “(1) IN GENERAL.—For purposes of section 38,
12 the clean energy production credit for any taxable
13 year is an amount equal to the product of—

14 “(A) the applicable credit rate (as deter-
15 mined under paragraph (2)), multiplied by

16 “(B) the kilowatt hours of electricity—

17 “(i) produced by the taxpayer at a
18 qualified facility, and

19 “(ii)(I) sold by the taxpayer to an un-
20 related person during the taxable year, or

21 “(II) in the case of a qualified facility
22 which is equipped with a metering device
23 which is owned and operated by an unre-
24 lated person, sold, consumed, or stored by
25 the taxpayer during the taxable year.

1 “(2) APPLICABLE CREDIT RATE.—

2 “(A) IN GENERAL.—

3 “(i) MAXIMUM CREDIT RATE.—Except
4 as provided in clause (ii), the applicable
5 credit rate is 1.5 cents.

6 “(ii) REDUCTION OF CREDIT BASED
7 ON GREENHOUSE GAS EMISSION RATE.—
8 The applicable credit rate shall be reduced
9 (but not below zero) by an amount which
10 bears the same ratio to the amount in ef-
11 fect under clause (i) as the greenhouse gas
12 emissions rate for the qualified facility
13 bears to 372 grams of CO_{2e} per KWh.

14 “(B) ROUNDING.—If any amount deter-
15 mined under subparagraph (A)(ii) is not a mul-
16 tiple of 0.1 cent, such amount shall be rounded
17 to the nearest multiple of 0.1 cent.

18 “(b) GREENHOUSE GAS EMISSIONS RATE.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, the term ‘greenhouse gas emissions rate’ means
21 the amount of greenhouse gases emitted into the at-
22 mosphere by a qualified facility in the production of
23 electricity, expressed as grams of CO_{2e} per KWh.

24 “(2) NON-FOSSIL FUEL COMBUSTION AND GAS-
25 IFICATION.—In the case of a qualified facility which

1 produces electricity through combustion or gasifi-
2 cation of a non-fossil fuel, the greenhouse gas emis-
3 sions rate for such facility shall be equal to the net
4 rate of greenhouse gases emitted into the atmos-
5 phere by such facility in the production of electricity,
6 expressed as grams of CO₂e per KWh.

7 “(3) ESTABLISHMENT OF SAFE HARBOR FOR
8 QUALIFIED FACILITIES.—

9 “(A) IN GENERAL.—The Secretary, in con-
10 sultation with the Administrator of the Envi-
11 ronmental Protection Agency, shall, by regula-
12 tion, establish safe-harbor greenhouse gas emis-
13 sions rates for types or categories of qualified
14 facilities, which a taxpayer may elect to use for
15 purposes of this section.

16 “(B) ROUNDING.—In establishing the safe-
17 harbor greenhouse gas emissions rates for
18 qualified facilities, the Secretary may round
19 such rates to the nearest multiple of 37.2
20 grams of CO₂e per KWh (or, in the case of a
21 greenhouse gas emissions rate which is less
22 than 18.6 grams of CO₂e per KWh, by round-
23 ing such rate to zero).

24 “(4) CARBON CAPTURE AND SEQUESTRATION
25 EQUIPMENT.—For purposes of this subsection, the

1 amount of greenhouse gases emitted into the atmos-
2 phere by a qualified facility in the production of
3 electricity shall not include any qualified carbon di-
4 oxide (as defined in section 48E(c)(3)(A)) that is
5 captured and disposed of by the taxpayer.

6 “(c) INFLATION ADJUSTMENT.—

7 “(1) IN GENERAL.—In the case of a calendar
8 year beginning after 2018, the 1.5 cent amount in
9 clause (i) of subsection (a)(2)(A) shall be adjusted
10 by multiplying such amount by the inflation adjust-
11 ment factor for the calendar year in which the sale
12 or use of the electricity occurs. If any amount as in-
13 creased under the preceding sentence is not a mul-
14 tiple of 0.1 cent, such amount shall be rounded to
15 the nearest multiple of 0.1 cent.

16 “(2) ANNUAL COMPUTATION.—The Secretary
17 shall, not later than April 1 of each calendar year,
18 determine and publish in the Federal Register the
19 inflation adjustment factor for such calendar year in
20 accordance with this subsection.

21 “(3) INFLATION ADJUSTMENT FACTOR.—The
22 term ‘inflation adjustment factor’ means, with re-
23 spect to a calendar year, a fraction the numerator
24 of which is the GDP implicit price deflator for the
25 preceding calendar year and the denominator of

1 which is the GDP implicit price deflator for the cal-
2 endar year 1992. The term ‘GDP implicit price
3 deflator’ means the most recent revision of the im-
4 plicit price deflator for the gross domestic product
5 as computed and published by the Department of
6 Commerce before March 15 of the calendar year.

7 “(d) CREDIT PHASE-OUT.—

8 “(1) IN GENERAL.—Subject to paragraph (3),
9 if the Secretary, in consultation with the Secretary
10 of Energy and the Administrator of the Environ-
11 mental Protection Agency, determines that the an-
12 nual greenhouse gas emissions from electrical pro-
13 duction in the United States are equal to or less
14 than 72 percent of the annual greenhouse gas emis-
15 sions from electrical production in the United States
16 for calendar year 2005, the amount of the clean en-
17 ergy production credit under subsection (a) for any
18 qualified facility placed in service during a calendar
19 year described in paragraph (2) shall be equal to the
20 product of—

21 “(A) the amount of the credit determined
22 under subsection (a) without regard to this sub-
23 section, multiplied by

24 “(B) the phase-out percentage under para-
25 graph (2).

1 “(2) PHASE-OUT PERCENTAGE.—The phase-out
2 percentage under this paragraph is equal to—

3 “(A) for a facility placed in service during
4 the first calendar year following the calendar
5 year in which the determination described in
6 paragraph (1) is made, 75 percent,

7 “(B) for a facility placed in service during
8 the second calendar year following such deter-
9 mination year, 50 percent,

10 “(C) for a facility placed in service during
11 the third calendar year following such deter-
12 mination year, 25 percent, and

13 “(D) for a facility placed in service during
14 any calendar year subsequent to the year de-
15 scribed in subparagraph (C), 0 percent.

16 “(3) DEADLINE TO BEGIN PHASE-OUT.—If the
17 Secretary, in consultation with the Secretary of En-
18 ergy and the Administrator of the Environmental
19 Protection Agency, determines that the annual
20 greenhouse gas emissions from electrical production
21 in the United States for each year before calendar
22 year 2026 are greater than the percentage specified
23 in paragraph (1), then the determination described
24 in such paragraph shall be deemed to have been
25 made for calendar year 2025.

1 “(e) DEFINITIONS.—In this section:

2 “(1) CO₂e PER KWh.—The term ‘CO₂e per
3 KWh’ means, with respect to any greenhouse gas,
4 the equivalent carbon dioxide per kilowatt hour of
5 electricity produced.

6 “(2) GREENHOUSE GAS.—The term ‘greenhouse
7 gas’ has the same meaning given such term under
8 section 211(o)(1)(G) of the Clean Air Act (42
9 U.S.C. 7545(o)(1)(G)), as in effect on the date of
10 the enactment of this section.

11 “(3) QUALIFIED FACILITY.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graphs (B) and (C), the term ‘qualified facility’
14 means a facility which is—

15 “(i) used for the generation of elec-
16 tricity, and

17 “(ii) originally placed in service after
18 December 31, 2017.

19 “(B) 10-YEAR PRODUCTION CREDIT.—For
20 purposes of this section, a facility shall only be
21 treated as a qualified facility during the 10-year
22 period beginning on the date the facility was
23 originally placed in service.

24 “(C) EXPANSION OF FACILITY; INCRE-
25 MENTAL PRODUCTION.—A qualified facility

1 shall include either of the following in connec-
2 tion with a facility described in subparagraph
3 (A)(i) that was previously placed in service, but
4 only to the extent of the increased amount of
5 electricity produced at the facility by reason of
6 the following:

7 “(i) A new unit placed in service after
8 December 31, 2017.

9 “(ii) Any efficiency improvements or
10 additions of capacity placed in service after
11 December 31, 2017.

12 “(D) COORDINATION WITH OTHER CRED-
13 ITS.—The term ‘qualified facility’ shall not in-
14 clude any facility for which—

15 “(i) a renewable electricity production
16 credit determined under section 45 is al-
17 lowed under section 38 for the taxable year
18 or any prior taxable year,

19 “(ii) an energy credit determined
20 under section 48 is allowed under section
21 38 for the taxable year or any prior tax-
22 able year, or

23 “(iii) a clean energy investment credit
24 determined under section 48E is allowed

1 under section 38 for the taxable year or
2 any prior taxable year.

3 “(f) FINAL GUIDANCE.—Not later than January 1,
4 2017, the Secretary, in consultation with the Adminis-
5 trator of the Environmental Protection Agency, shall issue
6 final guidance regarding implementation of this section,
7 including calculation of greenhouse gas emission rates for
8 qualified facilities and determination of clean energy pro-
9 duction credits under this section.

10 “(g) SPECIAL RULES.—

11 “(1) ONLY PRODUCTION IN THE UNITED
12 STATES TAKEN INTO ACCOUNT.—Consumption or
13 sales shall be taken into account under this section
14 only with respect to electricity the production of
15 which is within—

16 “(A) the United States (within the mean-
17 ing of section 638(1)), or

18 “(B) a possession of the United States
19 (within the meaning of section 638(2)).

20 “(2) COMBINED HEAT AND POWER SYSTEM
21 PROPERTY.—

22 “(A) IN GENERAL.—For purposes of sub-
23 section (a)(1)(B), the kilowatt hours of elec-
24 tricity produced by a taxpayer at a qualified fa-
25 cility shall include any production in the form

1 of useful thermal energy by any combined heat
2 and power system property within such facility.

3 “(B) COMBINED HEAT AND POWER SYS-
4 TEM PROPERTY.—For purposes of this para-
5 graph, the term ‘combined heat and power sys-
6 tem property’ has the same meaning given such
7 term by section 48(c)(3) (without regard to
8 subparagraphs (A)(iv), (B), and (D) thereof).

9 “(C) CONVERSION FROM BTU TO KWH.—

10 “(i) IN GENERAL.—For purposes of
11 subparagraph (A), the amount of kilowatt
12 hours of electricity produced in the form of
13 useful thermal energy shall be equal to the
14 quotient of—

15 “(I) the total useful thermal en-
16 ergy produced by the combined heat
17 and power system property within the
18 qualified facility, divided by

19 “(II) the heat rate for such facil-
20 ity.

21 “(ii) HEAT RATE.—For purposes of
22 this subparagraph, the term ‘heat rate’
23 means the amount of energy used by the
24 qualified facility to generate 1 kilowatt
25 hour of electricity, expressed as British

1 thermal units per net kilowatt hour gen-
2 erated.

3 “(3) PRODUCTION ATTRIBUTABLE TO THE TAX-
4 PAYER.—In the case of a qualified facility in which
5 more than 1 person has an ownership interest, ex-
6 cept to the extent provided in regulations prescribed
7 by the Secretary, production from the facility shall
8 be allocated among such persons in proportion to
9 their respective ownership interests in the gross
10 sales from such facility.

11 “(4) RELATED PERSONS.—Persons shall be
12 treated as related to each other if such persons
13 would be treated as a single employer under the reg-
14 ulations prescribed under section 52(b). In the case
15 of a corporation which is a member of an affiliated
16 group of corporations filing a consolidated return,
17 such corporation shall be treated as selling electricity
18 to an unrelated person if such electricity is sold to
19 such a person by another member of such group.

20 “(5) PASS-THRU IN THE CASE OF ESTATES AND
21 TRUSTS.—Under regulations prescribed by the Sec-
22 retary, rules similar to the rules of subsection (d) of
23 section 52 shall apply.

24 “(6) ALLOCATION OF CREDIT TO PATRONS OF
25 AGRICULTURAL COOPERATIVE.—

1 “(A) ELECTION TO ALLOCATE.—

2 “(i) IN GENERAL.—In the case of an
3 eligible cooperative organization, any por-
4 tion of the credit determined under sub-
5 section (a) for the taxable year may, at the
6 election of the organization, be apportioned
7 among patrons of the organization on the
8 basis of the amount of business done by
9 the patrons during the taxable year.

10 “(ii) FORM AND EFFECT OF ELEC-
11 TION.—An election under clause (i) for any
12 taxable year shall be made on a timely
13 filed return for such year. Such election,
14 once made, shall be irrevocable for such
15 taxable year. Such election shall not take
16 effect unless the organization designates
17 the apportionment as such in a written no-
18 tice mailed to its patrons during the pay-
19 ment period described in section 1382(d).

20 “(B) TREATMENT OF ORGANIZATIONS AND
21 PATRONS.—The amount of the credit appor-
22 tioned to any patrons under subparagraph
23 (A)—

24 “(i) shall not be included in the
25 amount determined under subsection (a)

1 with respect to the organization for the
2 taxable year, and

3 “(ii) shall be included in the amount
4 determined under subsection (a) for the
5 first taxable year of each patron ending on
6 or after the last day of the payment period
7 (as defined in section 1382(d)) for the tax-
8 able year of the organization or, if earlier,
9 for the taxable year of each patron ending
10 on or after the date on which the patron
11 receives notice from the cooperative of the
12 apportionment.

13 “(C) SPECIAL RULES FOR DECREASE IN
14 CREDITS FOR TAXABLE YEAR.—If the amount
15 of the credit of a cooperative organization de-
16 termined under subsection (a) for a taxable
17 year is less than the amount of such credit
18 shown on the return of the cooperative organi-
19 zation for such year, an amount equal to the
20 excess of—

21 “(i) such reduction, over

22 “(ii) the amount not apportioned to
23 such patrons under subparagraph (A) for
24 the taxable year,

1 shall be treated as an increase in tax imposed
2 by this chapter on the organization. Such in-
3 crease shall not be treated as tax imposed by
4 this chapter for purposes of determining the
5 amount of any credit under this chapter.

6 “(D) ELIGIBLE COOPERATIVE DEFINED.—
7 For purposes of this section, the term ‘eligible
8 cooperative’ means a cooperative organization
9 described in section 1381(a) which is owned
10 more than 50 percent by agricultural producers
11 or by entities owned by agricultural producers.
12 For this purpose an entity owned by an agricul-
13 tural producer is one that is more than 50 per-
14 cent owned by agricultural producers.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 38(b) is amended—

17 (A) in paragraph (35), by striking “plus”
18 at the end,

19 (B) in paragraph (36), by striking the pe-
20 riod at the end and inserting “, plus”, and

21 (C) by adding at the end the following new
22 paragraph:

23 “(37) the clean energy production credit deter-
24 mined under section 45S(a).”.

1 (2) The table of sections for subpart D of part
2 IV of subchapter A of chapter 1 is amended by add-
3 ing at the end the following new item:

 “Sec. 45S. Clean energy production credit.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to facilities placed in service after
6 December 31, 2017.

7 **SEC. 6012. CLEAN ENERGY INVESTMENT CREDIT.**

8 (a) BUSINESS CREDIT.—

9 (1) IN GENERAL.—Subpart E of part IV of
10 subchapter A of chapter 1 is amended by inserting
11 after section 48D the following new section:

12 **“SEC. 48E. CLEAN ENERGY INVESTMENT CREDIT.**

13 “(a) INVESTMENT CREDIT FOR QUALIFIED PROP-
14 PERTY.—

15 “(1) IN GENERAL.—For purposes of section 46,
16 the clean energy investment credit for any taxable
17 year is an amount equal to the sum of—

18 “(A) the clean energy percentage of the
19 qualified investment for such taxable year with
20 respect to any qualified facility, plus

21 “(B) 30 percent of the qualified invest-
22 ment for such taxable year with respect to
23 qualified carbon capture and sequestration
24 equipment, plus

1 “(C) 30 percent of the qualified investment
2 for such taxable year with respect to energy
3 storage property.

4 “(2) CLEAN ENERGY PERCENTAGE.—

5 “(A) IN GENERAL.—

6 “(i) MAXIMUM PERCENTAGE.—Except
7 as provided in clause (ii), the clean energy
8 percentage is 30 percent.

9 “(ii) REDUCTION OF PERCENTAGE
10 BASED ON GREENHOUSE GAS EMISSIONS
11 RATE.—The clean energy percentage shall
12 be reduced (but not below zero) by an
13 amount which bears the same ratio to 30
14 percent as the anticipated greenhouse gas
15 emissions rate for the qualified facility
16 bears to 372 grams of CO₂e per KWh.

17 “(B) ROUNDING.—If any amount deter-
18 mined under subparagraph (A)(ii) is not a mul-
19 tiple of 1 percent, such amount shall be round-
20 ed to the nearest multiple of 1 percent.

21 “(3) COORDINATION WITH REHABILITATION
22 CREDIT.—The clean energy percentage shall not
23 apply to that portion of the basis of any property
24 which is attributable to qualified rehabilitation ex-
25 penditures (as defined in section 47(c)(2)).

1 “(b) QUALIFIED INVESTMENT WITH RESPECT TO
2 ANY QUALIFIED FACILITY.—

3 “(1) IN GENERAL.—For purposes of subsection
4 (a)(1)(A), the qualified investment with respect to
5 any qualified facility for any taxable year is the
6 basis of any qualified property placed in service by
7 the taxpayer during such taxable year which is part
8 of a qualified facility.

9 “(2) QUALIFIED PROPERTY.—The term ‘quali-
10 fied property’ means property—

11 “(A) which is—

12 “(i) tangible personal property, or

13 “(ii) other tangible property (not in-
14 cluding a building or its structural compo-
15 nents), but only if such property is used as
16 an integral part of the qualified facility,

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

20 “(C) which is constructed, reconstructed,
21 erected, or acquired by the taxpayer, and

22 “(D) the original use of which commences
23 with the taxpayer.

24 “(3) QUALIFIED FACILITY.—The term ‘quali-
25 fied facility’ has the same meaning given such term

1 by section 45S(e)(3) (without regard to subpara-
2 graphs (B) and (D) thereof). Such term shall not in-
3 clude any facility for which a renewable electricity
4 production credit under section 45 or an energy
5 credit determined under section 48 is allowed under
6 section 38 for the taxable year or any prior taxable
7 year.

8 “(c) QUALIFIED INVESTMENT WITH RESPECT TO
9 QUALIFIED CARBON CAPTURE AND SEQUESTRATION
10 EQUIPMENT.—

11 “(1) IN GENERAL.—For purposes of subsection
12 (a)(1)(B), the qualified investment with respect to
13 qualified carbon capture and sequestration equip-
14 ment for any taxable year is the basis of any quali-
15 fied carbon capture and sequestration equipment
16 placed in service by the taxpayer during such taxable
17 year.

18 “(2) QUALIFIED CARBON CAPTURE AND SE-
19 QUESTRATION EQUIPMENT.—The term ‘qualified
20 carbon capture and sequestration equipment’ means
21 property—

22 “(A) installed in a facility placed in service
23 before January 1, 2018, which produces elec-
24 tricity,

1 “(B) which results in at least a 50 percent
2 reduction in the carbon dioxide emissions rate
3 at the facility, as compared to such rate before
4 installation of such equipment, through the cap-
5 ture and disposal of qualified carbon dioxide (as
6 defined in paragraph (3)(A)),

7 “(C) with respect to which depreciation is
8 allowable,

9 “(D) which is constructed, reconstructed,
10 erected, or acquired by the taxpayer, and

11 “(E) the original use of which commences
12 with the taxpayer.

13 “(3) QUALIFIED CARBON DIOXIDE.—

14 “(A) IN GENERAL.—The term ‘qualified
15 carbon dioxide’ means carbon dioxide captured
16 from an industrial source which—

17 “(i) would otherwise be released into
18 the atmosphere as industrial emission of
19 greenhouse gas,

20 “(ii) is measured at the source of cap-
21 ture and verified at the point of disposal or
22 injection,

23 “(iii) is disposed of by the taxpayer in
24 secure geological storage, and

1 “(iv) is captured and disposed of with-
2 in the United States (within the meaning
3 of section 638(1)) or a possession of the
4 United States (within the meaning of sec-
5 tion 638(2)).

6 “(B) SECURE GEOLOGICAL STORAGE.—
7 The term ‘secure geological storage’ has the
8 same meaning given to such term under section
9 45Q(d)(2).

10 “(d) QUALIFIED INVESTMENT WITH RESPECT TO
11 ENERGY STORAGE PROPERTY.—

12 “(1) IN GENERAL.—For purposes of subsection
13 (a)(1)(C), the qualified investment with respect to
14 energy storage property for any taxable year is the
15 basis of any energy storage property placed in serv-
16 ice by the taxpayer during such taxable year.

17 “(2) ENERGY STORAGE PROPERTY.—The term
18 ‘energy storage property’ means property—

19 “(A) installed at or near a facility which
20 produces electricity,

21 “(B) which receives, stores, and delivers
22 electricity or energy for conversion to electricity
23 which is sold by the taxpayer to an unrelated
24 person (or, in the case of a facility which is
25 equipped with a metering device which is owned

1 and operated by an unrelated person, sold or
2 consumed by the taxpayer), which may in-
3 clude—

4 “(i) hydroelectric pumped storage,

5 “(ii) compressed air energy storage,

6 “(iii) regenerative fuel cells,

7 “(iv) batteries,

8 “(v) superconducting magnetic energy
9 storage,

10 “(vi) thermal energy storage systems,

11 “(vii) fuel cells (as defined in section
12 48(c)(1)),

13 “(viii) any other relevant technology
14 identified by the Secretary (in consultation
15 with the Secretary of Energy), and

16 “(ix) any combination of the prop-
17 erties described in clauses (i) through
18 (viii),

19 “(C) with respect to which depreciation is
20 allowable,

21 “(D) which is constructed, reconstructed,
22 erected, or acquired by the taxpayer,

23 “(E) the original use of which commences
24 with the taxpayer, and

1 “(F) which is placed in service after De-
2 cember 31, 2017.

3 “(e) GREENHOUSE GAS EMISSIONS RATE.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, the term ‘greenhouse gas emissions rate’ has
6 the same meaning given such term under subsection
7 (b) of section 45S.

8 “(2) ESTABLISHMENT OF SAFE HARBOR FOR
9 QUALIFIED PROPERTY.—

10 “(A) IN GENERAL.—The Secretary, in con-
11 sultation with the Administrator of the Envi-
12 ronmental Protection Agency, shall, by regula-
13 tion, establish safe-harbor greenhouse gas emis-
14 sions rates for types or categories of qualified
15 property which are part of a qualified facility,
16 which a taxpayer may elect to use for purposes
17 of this section.

18 “(B) ROUNDING.—In establishing the safe-
19 harbor greenhouse gas emissions rates for
20 qualified property, the Secretary may round
21 such rates to the nearest multiple of 37.2
22 grams of CO₂e per KWh (or, in the case of a
23 greenhouse gas emissions rate which is less
24 than 18.6 grams of CO₂e per KWh, by round-
25 ing such rate to zero).

1 “(f) CERTAIN PROGRESS EXPENDITURE RULES
2 MADE APPLICABLE.—Rules similar to the rules of sub-
3 section (c)(4) and (d) of section 46 (as in effect on the
4 day before the date of the enactment of the Revenue Rec-
5 onciliation Act of 1990) shall apply for purposes of sub-
6 section (a).

7 “(g) CREDIT PHASE-OUT.—

8 “(1) IN GENERAL.—Subject to paragraph (3),
9 if the Secretary, in consultation with the Secretary
10 of Energy and the Administrator of the Environ-
11 mental Protection Agency, determines that the an-
12 nual greenhouse gas emissions from electrical pro-
13 duction in the United States are equal to or less
14 than 72 percent of the annual greenhouse gas emis-
15 sions from electrical production in the United States
16 for calendar year 2005, the amount of the clean en-
17 ergy investment credit under subsection (a) for any
18 qualified facility, qualified carbon capture and se-
19 questration equipment, or energy storage property
20 placed in service during a calendar year described in
21 paragraph (2) shall be equal to the product of—

22 “(A) the amount of the credit determined
23 under subsection (a) without regard to this sub-
24 section, multiplied by

1 “(B) the phase-out percentage under para-
2 graph (2).

3 “(2) PHASE-OUT PERCENTAGE.—The phase-out
4 percentage under this paragraph is equal to—

5 “(A) for a facility or property placed in
6 service during the first calendar year following
7 the calendar year in which the determination
8 described in paragraph (1) is made, 75 percent,

9 “(B) for a facility or property placed in
10 service during the second calendar year fol-
11 lowing such determination year, 50 percent,

12 “(C) for a facility or property placed in
13 service during the third calendar year following
14 such determination year, 25 percent, and

15 “(D) for a facility or property placed in
16 service during any calendar year subsequent to
17 the year described in subparagraph (C), 0 per-
18 cent.

19 “(3) DEADLINE TO BEGIN PHASE-OUT.—If the
20 Secretary, in consultation with the Secretary of En-
21 ergy and the Administrator of the Environmental
22 Protection Agency, determines that the annual
23 greenhouse gas emissions from electrical production
24 in the United States for each year before calendar
25 year 2026 are greater than the percentage specified

1 in paragraph (1), then the determination described
2 in such paragraph shall be deemed to have been
3 made for calendar year 2025.

4 “(h) DEFINITIONS.—In this section:

5 “(1) CO₂e PER KWh.—The term ‘CO₂e per
6 KWh’ has the same meaning given such term under
7 section 45S(e)(1).

8 “(2) GREENHOUSE GAS.—The term ‘greenhouse
9 gas’ has the same meaning given such term under
10 section 45S(e)(2).

11 “(i) RECAPTURE OF CREDIT.—For purposes of sec-
12 tion 50, if the Administrator of the Environmental Protec-
13 tion Agency determines that—

14 “(1) the greenhouse gas emissions rate for a
15 qualified facility is significantly higher than the an-
16 ticipated greenhouse gas emissions rate claimed by
17 the taxpayer for purposes of the clean energy invest-
18 ment credit under this section, or

19 “(2) with respect to any qualified carbon cap-
20 ture and sequestration equipment installed in a facil-
21 ity, the carbon dioxide emissions from such facility
22 cease to be captured or disposed of in a manner con-
23 sistent with the requirements of subsection (c),

1 the facility or equipment shall cease to be investment cred-
2 it property in the taxable year in which the determination
3 is made.

4 “(j) FINAL GUIDANCE.—Not later than January 1,
5 2017, the Secretary, in consultation with the Adminis-
6 trator of the Environmental Protection Agency, shall issue
7 final guidance regarding implementation of this section,
8 including calculation of greenhouse gas emission rates for
9 qualified facilities and determination of clean energy in-
10 vestment credits under this section.”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 46 is amended by inserting a
13 comma at the end of paragraph (4), by striking
14 “and” at the end of paragraph (5), by striking
15 the period at the end of paragraph (6) and in-
16 serting “, and”, and by adding at the end the
17 following new paragraph:

18 “(7) the clean energy investment credit.”.

19 (B) Section 49(a)(1)(C) is amended by
20 striking “and” at the end of clause (v), by
21 striking the period at the end of clause (vi) and
22 inserting a comma, and by adding at the end
23 the following new clauses:

1 “(vii) the basis of any qualified prop-
2 erty which is part of a qualified facility
3 under section 48E,

4 “(viii) the basis of any qualified car-
5 bon capture and sequestration equipment
6 under section 48E, and

7 “(ix) the basis of any energy storage
8 property under section 48E.”.

9 (C) Section 50(a)(2)(E) is amended by in-
10 serting “or 48E(e)” after “section 48(b)”.

11 (D) The table of sections for subpart E of
12 part IV of subchapter A of chapter 1 is amend-
13 ed by inserting after the item relating to section
14 48D the following new item:

“48E. Clean energy investment credit.”.

15 (3) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to property placed in
17 service after December 31, 2017, under rules similar
18 to the rules of section 48(m) of the Internal Revenue
19 Code of 1986 (as in effect on the day before the
20 date of the enactment of the Revenue Reconciliation
21 Act of 1990).

22 (b) INDIVIDUAL CREDIT.—

23 (1) IN GENERAL.—Section 25D is amended to
24 read as follows:

1 **“SEC. 25D. CLEAN RESIDENTIAL ENERGY CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—

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

7 “(A) the clean energy percentage of the ex-
8 penditures made by the taxpayer for qualified
9 property which is—

10 “(i) installed in a dwelling unit which
11 is located in the United States and used as
12 a residence by the taxpayer, and

13 “(ii) placed in service during such tax-
14 able year, plus

15 “(B) 30 percent of the expenditures made
16 by the taxpayer for energy storage property
17 which is—

18 “(i) installed in a dwelling unit which
19 is located in the United States and used as
20 a residence by the taxpayer, and

21 “(ii) placed in service during such tax-
22 able year.

23 “(2) CLEAN ENERGY PERCENTAGE.—

24 “(A) IN GENERAL.—

1 “(i) MAXIMUM PERCENTAGE.—Except
2 as provided in clause (ii), the clean energy
3 percentage is 30 percent.

4 “(ii) REDUCTION OF PERCENTAGE
5 BASED ON GREENHOUSE GAS EMISSIONS
6 RATE.—The clean energy percentage shall
7 be reduced (but not below zero) by an
8 amount which bears the same ratio to 30
9 percent as the anticipated greenhouse gas
10 emissions rate for the qualified property
11 bears to 372 grams of CO₂e per KWh.

12 “(B) ROUNDING.—If any amount deter-
13 mined under subparagraph (A)(ii) is not a mul-
14 tiple of 1 percent, such amount shall be round-
15 ed to the nearest multiple of 1 percent.

16 “(C) DEFINITIONS.—For purposes of this
17 section, the terms ‘greenhouse gas emissions
18 rate’ and ‘CO₂e per KWh’ have the same mean-
19 ings given such terms under subsections (b) and
20 (e)(1) of section 45S, respectively.

21 “(3) ESTABLISHMENT OF SAFE HARBOR FOR
22 QUALIFIED PROPERTY.—

23 “(A) IN GENERAL.—The Secretary, in con-
24 sultation with the Administrator of the Envi-
25 ronmental Protection Agency, shall, by regula-

1 tion, establish safe-harbor greenhouse gas emis-
2 sions rates for types or categories of qualified
3 property which are installed in a dwelling unit,
4 which a taxpayer may elect to use for purposes
5 of this section.

6 “(B) ROUNDING.—In establishing the safe-
7 harbor greenhouse gas emissions rates for
8 qualified property, the Secretary may round
9 such rates to the nearest multiple of 37.2
10 grams of CO₂e per KWh (or, in the case of a
11 greenhouse gas emissions rate which is less
12 than 18.6 grams of CO₂e per KWh, by round-
13 ing such rate to zero).

14 “(b) QUALIFIED PROPERTY.—The term ‘qualified
15 property’ means property—

16 “(1) which is tangible personal property,

17 “(2) which is used for the generation of elec-
18 tricity,

19 “(3) which is constructed, reconstructed, erect-
20 ed, or acquired by the taxpayer,

21 “(4) the original use of which commences with
22 the taxpayer, and

23 “(5) which is originally placed in service after
24 December 31, 2017.

1 “(c) ENERGY STORAGE PROPERTY.—The term ‘en-
2 ergy storage property’ means property which receives,
3 stores, and delivers electricity or energy for conversion to
4 electricity which is consumed by the taxpayer, which may
5 include—

6 “(1) batteries,

7 “(2) thermal energy storage systems,

8 “(3) fuel cells,

9 “(4) any other relevant technology identified by
10 the Secretary (in consultation with the Secretary of
11 Energy), and

12 “(5) any combination of the properties de-
13 scribed in paragraphs (1) through (4).

14 “(d) CARRYFORWARD OF UNUSED CREDIT.—If the
15 credit allowable under subsection (a) exceeds the limita-
16 tion imposed by section 26(a) for such taxable year re-
17 duced by the sum of the credits allowable under this sub-
18 part (other than this section), such excess shall be carried
19 to the succeeding taxable year and added to the credit al-
20 lowable under subsection (a) for such succeeding taxable
21 year.

22 “(e) CREDIT PHASE-OUT.—

23 “(1) IN GENERAL.—Subject to paragraph (3),
24 if the Secretary determines that the annual green-
25 house gas emissions from electrical production in the

1 United States are equal to or less than the percent-
2 age specified in section 48E(g), the amount of the
3 credit allowable under subsection (a) for any quali-
4 fied property or energy storage property placed in
5 service during a calendar year described in para-
6 graph (2) shall be equal to the product of—

7 “(A) the amount of the credit determined
8 under subsection (a) without regard to this sub-
9 section, multiplied by

10 “(B) the phase-out percentage under para-
11 graph (2).

12 “(2) PHASE-OUT PERCENTAGE.—The phase-out
13 percentage under this paragraph is equal to—

14 “(A) for property placed in service during
15 the first calendar year following the calendar
16 year in which the determination described in
17 paragraph (1) is made, 75 percent,

18 “(B) for property placed in service during
19 the second calendar year following such deter-
20 mination year, 50 percent,

21 “(C) for property placed in service during
22 the third calendar year following such deter-
23 mination year, 25 percent, and

1 “(D) for property placed in service during
2 any calendar year subsequent to the year de-
3 scribed in subparagraph (C), 0 percent.

4 “(3) DEADLINE TO BEGIN PHASE-OUT.—If the
5 Secretary, in consultation with the Secretary of En-
6 ergy and the Administrator of the Environmental
7 Protection Agency, determines that the annual
8 greenhouse gas emissions from electrical production
9 in the United States for each year before calendar
10 year 2026 are greater than the percentage specified
11 in section 48E(g), then the determination described
12 in paragraph (1) shall be deemed to have been made
13 for calendar year 2025.

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

15 “(1) LABOR COSTS.—Expenditures for labor
16 costs properly allocable to the onsite preparation, as-
17 sembly, or original installation of the qualified prop-
18 erty or energy storage property and for piping or
19 wiring to interconnect such property to the dwelling
20 unit shall be taken into account for purposes of this
21 section.

22 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
23 HOUSING CORPORATION.—In the case of an indi-
24 vidual who is a tenant-stockholder (as defined in sec-
25 tion 216) in a cooperative housing corporation (as

1 defined in such section), such individual shall be
2 treated as having made his tenant-stockholder's pro-
3 portionate share (as defined in section 216(b)(3)) of
4 any expenditures of such corporation.

5 “(3) CONDOMINIUMS.—

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

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

21 “(4) ALLOCATION IN CERTAIN CASES.—If less
22 than 80 percent of the use of a property is for non-
23 business purposes, only that portion of the expendi-
24 tures for such property which is properly allocable to

1 use for nonbusiness purposes shall be taken into ac-
2 count.

3 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
4 title, if a credit is allowed under this section for any ex-
5 penditures 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 expenditures shall be reduced by
8 the amount of the credit so allowed.

9 “(h) FINAL GUIDANCE.—Not later than January 1,
10 2017, the Secretary, in consultation with the Adminis-
11 trator of the Environmental Protection Agency, shall issue
12 final guidance regarding implementation of this section,
13 including calculation of greenhouse gas emission rates for
14 qualified property and determination of residential clean
15 energy property credits under this section.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Paragraph (1) of section 45(d) is
18 amended by striking “Such term” and all that
19 follows through the period and inserting the fol-
20 lowing: “Such term shall not include any facil-
21 ity with respect to which any expenditures for
22 qualified property (as defined in subsection (b)
23 of section 25D) which uses wind to produce
24 electricity is taken into account in determining
25 the credit under such section.”.

1 (B) Paragraph (34) of section 1016(a) is
2 amended by striking “section 25D(f)” and in-
3 serting “section 25D(h)”.

4 (C) The item relating to section 25D in
5 the table of contents for subpart A of part IV
6 of subchapter A of chapter 1 is amended to
7 read as follows:

“Sec. 25D. Clean residential energy credit.”.

8 (3) EFFECTIVE DATE.—The amendments made
9 by this section shall apply to property placed in serv-
10 ice after December 31, 2017.

11 **SEC. 6013. EXTENSIONS AND MODIFICATIONS OF VARIOUS**
12 **ENERGY PROVISIONS.**

13 (a) NONBUSINESS ENERGY PROPERTY.—

14 (1) IN GENERAL.—Paragraph (2) of section
15 25C(g) is amended by striking “December 31,
16 2016” and inserting “December 31, 2017”.

17 (2) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to property placed in
19 service after December 31, 2016.

20 (b) RESIDENTIAL ENERGY EFFICIENT PROPERTY.—

21 (1) IN GENERAL.—Subsection (g) of section
22 25D is amended by striking “December 31, 2016”
23 and inserting “December 31, 2017”.

1 (2) ELIMINATION OF PHASEOUT.—Division P
2 of the Consolidated Appropriations Act, 2016 (Pub.
3 L. 114-113) is amended by striking section 304.

4 (c) ALTERNATIVE FUEL VEHICLE REFUELING PROP-
5 erty CREDIT.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 30C(g) is amended by striking “December 31,
8 2016” and inserting “December 31, 2017”.

9 (2) EFFECTIVE DATE.—The amendments made
10 by this subsection shall apply to property placed in
11 service after December 31, 2016.

12 (d) 2- AND 3-WHEELED PLUG-IN ELECTRIC VEHI-
13 cles.—

14 (1) IN GENERAL.—Clause (ii) of section
15 30D(g)(E) is amended to read as follows:

16 “(ii) after December 31, 2016, and
17 before January 1, 2018.”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to vehicles acquired
20 after December 31, 2016.

21 (e) ELECTRICITY PRODUCED FROM CERTAIN RE-
22 newable resources.—

23 (1) IN GENERAL.—The following provisions of
24 section 45(d) are each amended by striking “Janu-

1 ary 1, 2017” each place it appears and inserting
2 “January 1, 2018”:

3 (A) Paragraph (2)(A).

4 (B) Paragraph (3)(A).

5 (C) Paragraph (4)(B).

6 (D) Paragraph (6).

7 (E) Paragraph (7).

8 (F) Paragraph (9).

9 (G) Paragraph (11)(B).

10 (2) EFFECTIVE DATE.—The amendments made
11 by this subsection shall take effect on January 1,
12 2017.

13 (f) CREDIT FOR PRODUCTION FROM ADVANCED NU-
14 CLEAR POWER FACILITIES.—Section 45J(d)(1)(B) is
15 amended by striking “2021” and inserting “2018”.

16 (g) NEW ENERGY EFFICIENT HOME CREDIT.—

17 (1) IN GENERAL.—Subsection (g) of section
18 45L is amended by striking “December 31, 2016”
19 and inserting “December 31, 2017”.

20 (2) EFFECTIVE DATE.—The amendments made
21 by this subsection shall apply to any qualified new
22 energy efficient home acquired after December 31,
23 2016.

24 (h) REPEAL OF ENERGY EFFICIENT APPLIANCE
25 CREDIT.—

1 (1) IN GENERAL.—Subpart D of part IV of
2 subchapter A of chapter 1 of subtitle A is amended
3 by striking section 45M.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 38(b) is amended by striking
6 paragraph (24).

7 (B) The table of sections for subpart D of
8 part IV of subchapter A of chapter 1 of subtitle
9 A is amended by striking the item relating to
10 section 45M.

11 (3) EFFECTIVE DATE.—The amendments made
12 by this subsection shall take effect on the date of the
13 enactment of this Act.

14 (i) CREDIT FOR CARBON DIOXIDE SEQUESTRA-
15 TION.—Section 45Q(c) is amended—

16 (1) in paragraph (2), by striking “and” at the
17 end,

18 (2) in paragraph (3), by striking the period at
19 the end and inserting “, and”, and

20 (3) by adding at the end the following new
21 paragraph:

22 “(4) which is placed in service before January
23 1, 2018.”.

24 (j) ELIMINATION OF PHASEOUT OF CREDITS FOR
25 WIND FACILITIES AND SOLAR ENERGY PROPERTY.—

1 (1) WIND FACILITIES.—

2 (A) IN GENERAL.—Paragraph (1) of sec-
3 tion 45(d) is amended by striking “January 1,
4 2020” and inserting “January 1, 2018”.

5 (B) PHASEOUT.—Subsection (b) of section
6 45 is amended by striking paragraph (5).

7 (C) QUALIFIED INVESTMENT CREDIT FA-
8 CILITY.—

9 (i) IN GENERAL.—Section
10 48(a)(5)(C)(ii) is amended by striking
11 “January 1, 2017” and all that follows
12 through “section 45(d))” and inserting
13 “January 1, 2018”.

14 (ii) PHASEOUT.—Paragraph (5) of
15 section 48(a) is amended by striking sub-
16 paragraph (E).

17 (D) EFFECTIVE DATE.—The amendments
18 made by this paragraph shall take effect on
19 January 1, 2017.

20 (2) SOLAR ENERGY PROPERTY.—

21 (A) IN GENERAL.—Subclause (II) of sec-
22 tion 48(a)(2)(A)(i) is amended by striking
23 “property the construction of which begins be-
24 fore January 1, 2022” and inserting “periods
25 ending before January 1, 2018”.

1 (B) PHASEOUT.—Subsection (a) of section
2 48 is amended by striking paragraph (6).

3 (C) CONFORMING AMENDMENT.—Subpara-
4 graph (A) of section 48(a)(2) is amended by
5 striking “Except as provided in paragraph (6),
6 the energy percentage” and inserting “The en-
7 ergy percentage”.

8 (D) EFFECTIVE DATE.—The amendments
9 made by this paragraph shall take effect on
10 January 1, 2017.

11 (k) ENERGY CREDIT.—

12 (1) SOLAR ENERGY PROPERTY.—Section
13 48(a)(3)(A) is amended—

14 (A) in clause (i), by inserting “but only
15 with respect to periods ending before January
16 1, 2018” after “swimming pool,” and

17 (B) in clause (ii), by striking “January 1,
18 2017” and inserting “January 1, 2018”.

19 (2) GEOTHERMAL ENERGY PROPERTY.—Section
20 48(a)(3)(A)(iii) is amended by inserting “with re-
21 spect to periods ending before January 1, 2018,
22 and” after “but only”.

23 (3) THERMAL ENERGY PROPERTY.—Section
24 48(a)(3)(A)(vii) is amended by striking “January 1,
25 2017” and inserting “January 1, 2018”.

1 (4) QUALIFIED FUEL CELL PROPERTY.—Sec-
2 tion 48(c)(1)(D) is amended by striking “December
3 31, 2016” and inserting “December 31, 2017”.

4 (5) QUALIFIED MICROTURBINE PROPERTY.—
5 Section 48(c)(2)(D) is amended by striking “Decem-
6 ber 31, 2016” and inserting “December 31, 2017”.

7 (6) COMBINED HEAT AND POWER SYSTEM
8 PROPERTY.—Section 48(c)(3)(A)(iv) is amended by
9 striking “January 1, 2017” and inserting “January
10 1, 2018”.

11 (7) QUALIFIED SMALL WIND ENERGY PROP-
12 ERTY.—Section 48(c)(4)(C) is amended by striking
13 “December 31, 2016” and inserting “December 31,
14 2017”.

15 (l) QUALIFYING ADVANCED ENERGY PROJECT
16 CREDIT.—

17 (1) IN GENERAL.—Section 48C is amended—

18 (A) by redesignating subsection (e) as sub-
19 section (f), and

20 (B) by inserting after subsection (d) the
21 following new subsection:

22 “(e) ADDITIONAL QUALIFYING ADVANCED ENERGY
23 PROGRAM.—

24 “(1) ESTABLISHMENT.—

1 “(A) IN GENERAL.—Not later than 180
2 days after the date of enactment of this sub-
3 section, the Secretary, in consultation with the
4 Secretary of Energy, shall establish an addi-
5 tional qualifying advanced energy project pro-
6 gram to consider and award certifications for
7 qualified investments eligible for credits under
8 this section to qualifying advanced energy
9 project sponsors.

10 “(B) LIMITATION.—The total amount of
11 credits that may be allocated under the pro-
12 gram described in subparagraph (A) shall not
13 exceed \$5,000,000,000.

14 “(2) CERTIFICATION.—

15 “(A) APPLICATION PERIOD.—Each appli-
16 cant for certification under this paragraph shall
17 submit an application containing such informa-
18 tion as the Secretary may require during the 2-
19 year period beginning on the date the Secretary
20 establishes the program under paragraph (1).

21 “(B) TIME TO MEET CRITERIA FOR CER-
22 TIFICATION.—Each applicant for certification
23 shall have 1 year from the date of acceptance
24 by the Secretary of the application during
25 which to provide to the Secretary evidence that

1 the requirements of the certification have been
2 met.

3 “(C) PERIOD OF ISSUANCE.—An applicant
4 which receives a certification shall have 3 years
5 from the date of issuance of the certification in
6 order to place the project in service and if such
7 project is not placed in service by that time pe-
8 riod, then the certification shall no longer be
9 valid.

10 “(3) SELECTION CRITERIA.—In determining
11 which qualifying advanced energy projects to certify
12 under this section, the Secretary shall consider the
13 same criteria described in subsection (d)(3).

14 “(4) REVIEW AND REDISTRIBUTION.—

15 “(A) REVIEW.—Not later than 4 years
16 after the date of enactment of this subsection,
17 the Secretary shall review the credits allocated
18 pursuant to this subsection as of such date.

19 “(B) REDISTRIBUTION.—The Secretary
20 may reallocate credits awarded under this sec-
21 tion if the Secretary determines that—

22 “(i) there is an insufficient quantity
23 of qualifying applications for certification
24 pending at the time of the review, or

1 “(ii) any certification made pursuant
2 to paragraph (2) has been revoked pursu-
3 ant to paragraph (2)(B) because the
4 project subject to the certification has been
5 delayed as a result of third party opposi-
6 tion or litigation to the proposed project.

7 “(C) REALLOCATION.—If the Secretary de-
8 termines that credits under this section are
9 available for reallocation pursuant to the re-
10 quirements set forth in paragraph (2), the Sec-
11 retary is authorized to conduct an additional
12 program for applications for certification.

13 “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-
14 retary shall, upon making a certification under this
15 subsection, publicly disclose the identity of the appli-
16 cant and the amount of the credit with respect to
17 such applicant.”.

18 “(2) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to periods after the
20 date of the enactment of this Act, under rules simi-
21 lar to the rules of section 48(m) of the Internal Rev-
22 enue Code of 1986 (as in effect on the day before
23 the date of the enactment of the Revenue Reconcili-
24 ation Act of 1990).

1 (m) ENERGY EFFICIENT COMMERCIAL BUILDINGS
2 DEDUCTION.—

3 (1) IN GENERAL.—Subsection (h) of section
4 179D is amended by striking “December 31, 2016”
5 and inserting “December 31, 2017”.

6 (2) EFFECTIVE DATE.—The amendments made
7 by this section shall apply to property placed in serv-
8 ice after December 31, 2016.

9 **Subtitle B—Clean Fuel Tax Credits**

10 **SEC. 6021. CLEAN FUEL PRODUCTION CREDIT.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-
12 chapter A of chapter 1, as amended by section __01, is
13 amended by adding at the end the following new section:

14 **“SEC. 45T. CLEAN FUEL PRODUCTION CREDIT.**

15 “(a) AMOUNT OF CREDIT.—

16 “(1) IN GENERAL.—For purposes of section 38,
17 the clean fuel production credit for any taxable year
18 is an amount equal to the product of—

19 “(A) \$1.00 per energy equivalent of a gal-
20 lon of gasoline with respect to any transpor-
21 tation fuel which is—

22 “(i) produced by the taxpayer at a
23 qualified facility, and

24 “(ii) sold or used by the taxpayer in
25 a manner described in paragraph (2), and

1 “(B) the emissions factor for such fuel (as
2 determined under subsection (b)(2)).

3 “(2) SALE OR USE.—For purposes of para-
4 graph (1)(A)(ii), the transportation fuel is sold or
5 used in a manner described in this paragraph if such
6 fuel is—

7 “(A) sold by the taxpayer to an unrelated
8 person—

9 “(i) for use by such person in the pro-
10 duction of a fuel mixture that will be used
11 as a transportation fuel,

12 “(ii) for use by such person as a
13 transportation fuel in a trade or business,
14 or

15 “(iii) who sells such fuel at retail to
16 another person and places such fuel in the
17 fuel tank of such other person, or

18 “(B) used or sold by the taxpayer for any
19 purpose described in subparagraph (A).

20 “(3) ROUNDING.—If any amount determined
21 under paragraph (1) is not a multiple of 0.1 cent,
22 such amount shall be rounded to the nearest mul-
23 tiple of 0.1 cent.

24 “(b) EMISSIONS FACTORS.—

25 “(1) EMISSIONS FACTOR.—

1 “(A) IN GENERAL.—The emissions factor
2 of a transportation fuel shall be an amount
3 equal to the quotient of—

4 “(i) an amount (not less than zero)
5 equal to —

6 “(I) 77.23, minus

7 “(II) the emissions rate for such
8 fuel, divided by

9 “(ii) 77.23.

10 “(B) ESTABLISHMENT OF SAFE HARBOR
11 EMISSIONS RATE.—The Secretary, in consulta-
12 tion with the Administrator of the Environ-
13 mental Protection Agency, shall establish the
14 safe harbor emissions rate for similar types and
15 categories of transportation fuels based on the
16 amount of lifecycle greenhouse gas emissions
17 (as described in section 211(o)(1)(H) of the
18 Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in
19 effect on the date of the enactment of this sec-
20 tion) for such fuels, expressed as kilograms of
21 CO₂e per mmBTU, which a taxpayer may elect
22 to use for purposes of this section.

23 “(C) ROUNDING OF SAFE HARBOR EMIS-
24 SIONS RATE.—The Secretary may round the
25 safe harbor emissions rates under subparagraph

1 (B) to the nearest multiple of 7.723 kilograms
2 of CO₂e per mmBTU, except that, in the case
3 of an emissions rate that is less than 3.862
4 kilograms of CO₂e per mmBTU, the Secretary
5 may round such rate to zero.

6 “(D) PROVISIONAL SAFE HARBOR EMIS-
7 SIONS RATE.—

8 “(i) IN GENERAL.—In the case of any
9 transportation fuel for which a safe harbor
10 emissions rate has not been established by
11 the Secretary, a taxpayer producing such
12 fuel may file a petition with the Secretary
13 for determination of the safe harbor emis-
14 sions rate with respect to such fuel.

15 “(ii) ESTABLISHMENT OF PROVI-
16 SIONAL AND FINAL SAFE HARBOR EMIS-
17 SIONS RATE.—In the case of a transpor-
18 tation fuel for which a petition described in
19 clause (i) has been filed, the Secretary, in
20 consultation with the Administrator of the
21 Environmental Protection Agency, shall—

22 “(I) not later than 12 months
23 after the date on which the petition
24 was filed, provide a provisional safe
25 harbor emissions rate for such fuel

1 which a taxpayer may use for pur-
2 poses of this section, and

3 “(II) not later than 24 months
4 after the date on which the petition
5 was filed, establish the safe harbor
6 emissions rate for such fuel.

7 “(E) ROUNDING.—If any amount deter-
8 mined under subparagraph (A) is not a multiple
9 of 0.1, such amount shall be rounded to the
10 nearest multiple of 0.1.

11 “(2) PUBLISHING SAFE HARBOR EMISSIONS
12 RATE.—The Secretary, in consultation with the Ad-
13 ministrator of the Environmental Protection Agency,
14 shall publish a table that sets forth the safe harbor
15 emissions rate (as established pursuant to paragraph
16 (1)) for similar types and categories of transpor-
17 tation fuels.

18 “(c) INFLATION ADJUSTMENT.—

19 “(1) IN GENERAL.—In the case of calendar
20 years beginning after 2018, the \$1.00 amount in
21 subsection (a)(1)(A) shall be adjusted by multiplying
22 such amount by the inflation adjustment factor for
23 the calendar year in which the sale or use of the
24 transportation fuel occurs. If any amount as in-
25 creased under the preceding sentence is not a mul-

1 multiple of 1 cent, such amount shall be rounded to the
2 nearest multiple of 1 cent.

3 “(2) INFLATION ADJUSTMENT FACTOR.—For
4 purposes of paragraph (1), the inflation adjustment
5 factor shall be the inflation adjustment factor deter-
6 mined and published by the Secretary pursuant to
7 section 45S(c), determined by substituting ‘calendar
8 year 2017’ for ‘calendar year 1992’ in paragraph (3)
9 thereof.

10 “(d) CREDIT PHASE-OUT.—

11 “(1) IN GENERAL.—Subject to paragraph (3),
12 if the Secretary, in consultation with the Secretary
13 of Energy and the Administrator of the Environ-
14 mental Protection Agency, determines that the
15 greenhouse gas emissions from transportation fuel
16 produced and sold at retail annually in the United
17 States are equal to or less than 72 percent of the
18 greenhouse gas emissions from transportation fuel
19 produced and sold at retail in the United States dur-
20 ing calendar year 2005, the amount of the clean fuel
21 production credit under this section for any qualified
22 facility placed in service during a calendar year de-
23 scribed in paragraph (2) shall be equal to the prod-
24 uct of—

1 “(A) the amount of the credit determined
2 under subsection (a) without regard to this sub-
3 section, multiplied by

4 “(B) the phase-out percentage under para-
5 graph (2).

6 “(2) PHASE-OUT PERCENTAGE.—The phase-out
7 percentage under this paragraph is equal to—

8 “(A) for a facility placed in service during
9 the first calendar year following the calendar
10 year in which the determination described in
11 paragraph (1) is made, 75 percent,

12 “(B) for a facility placed in service during
13 the second calendar year following such deter-
14 mination year, 50 percent,

15 “(C) for a facility placed in service during
16 the third calendar year following such deter-
17 mination year, 25 percent, and

18 “(D) for a facility placed in service during
19 any calendar year subsequent to the year de-
20 scribed in subparagraph (C), 0 percent.

21 “(3) DEADLINE TO BEGIN PHASE-OUT.—If the
22 Secretary, in consultation with the Secretary of En-
23 ergy and the Administrator of the Environmental
24 Protection Agency, determines that the greenhouse
25 gas emissions from transportation fuel produced and

1 sold at retail annually in the United States are, for
2 each year before calendar year 2026, greater than
3 the percentage specified in paragraph (1), then the
4 determination described in such paragraph shall be
5 deemed to have been made for calendar year 2025.

6 “(e) DEFINITIONS.—In this section:

7 “(1) mmBTU.—The term ‘mmBTU’ means
8 1,000,000 British thermal units.

9 “(2) CO₂e.—The term ‘CO₂e’ means, with re-
10 spect to any greenhouse gas, the equivalent carbon
11 dioxide.

12 “(3) GREENHOUSE GAS.—The term ‘greenhouse
13 gas’ has the same meaning given that term under
14 section 211(o)(1)(G) of the Clean Air Act (42
15 U.S.C. 7545(o)(1)(G)), as in effect on the date of
16 the enactment of this section.

17 “(4) QUALIFIED FACILITY.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graphs (B) and (C), the term ‘qualified facility’
20 means a facility used for the production of
21 transportation fuels.

22 “(B) 10-YEAR PRODUCTION CREDIT.—For
23 purposes of this section, a facility shall only
24 qualify as a qualified facility—

1 “(i) in the case of a facility that is
2 originally placed in service after December
3 31, 2017, for the 10-year period beginning
4 on the date such facility is placed in serv-
5 ice, or

6 “(ii) in the case of a facility that is
7 originally placed in service before January
8 1, 2018, for the 10-year period beginning
9 on January 1, 2018.

10 “(5) TRANSPORTATION FUEL.—The term
11 ‘transportation fuel’ means a fuel which is suitable
12 for use as a fuel in a highway vehicle or aircraft.

13 “(f) FINAL GUIDANCE.—Not later than January 1,
14 2017, the Secretary, in consultation with the Adminis-
15 trator of the Environmental Protection Agency, shall issue
16 final guidance regarding implementation of this section,
17 including calculation of emissions factors for transpor-
18 tation fuel, the table described in subsection (b)(2), and
19 the determination of clean fuel production credits under
20 this section.

21 “(g) SPECIAL RULES.—

22 “(1) ONLY REGISTERED PRODUCTION IN THE
23 UNITED STATES TAKEN INTO ACCOUNT.—

24 “(A) IN GENERAL.—No clean fuel produc-
25 tion credit shall be determined under subsection

1 (a) with respect to any transportation fuel un-
2 less—

3 “(i) the taxpayer is registered as a
4 producer of clean fuel under section 4101
5 at the time of production, and

6 “(ii) such fuel is produced in the
7 United States.

8 “(B) UNITED STATES.—For purposes of
9 this paragraph, the term ‘United States’ in-
10 cludes any possession of the United States.

11 “(2) PRODUCTION ATTRIBUTABLE TO THE TAX-
12 PAYER.—In the case of a facility in which more than
13 1 person has an ownership interest, except to the ex-
14 tent provided in regulations prescribed by the Sec-
15 retary, production from the facility shall be allocated
16 among such persons in proportion to their respective
17 ownership interests in the gross sales from such fa-
18 cility.

19 “(3) RELATED PERSONS.—Persons shall be
20 treated as related to each other if such persons
21 would be treated as a single employer under the reg-
22 ulations prescribed under section 52(b). In the case
23 of a corporation which is a member of an affiliated
24 group of corporations filing a consolidated return,
25 such corporation shall be treated as selling fuel to

1 an unrelated person if such fuel is sold to such a
2 person by another member of such group.

3 “(4) PASS-THRU IN THE CASE OF ESTATES AND
4 TRUSTS.—Under regulations prescribed by the Sec-
5 retary, rules similar to the rules of subsection (d) of
6 section 52 shall apply.

7 “(5) ALLOCATION OF CREDIT TO PATRONS OF
8 AGRICULTURAL COOPERATIVE.—

9 “(A) ELECTION TO ALLOCATE.—

10 “(i) IN GENERAL.—In the case of an
11 eligible cooperative organization, any por-
12 tion of the credit determined under sub-
13 section (a) for the taxable year may, at the
14 election of the organization, be apportioned
15 among patrons of the organization on the
16 basis of the amount of business done by
17 the patrons during the taxable year.

18 “(ii) FORM AND EFFECT OF ELEC-
19 TION.—An election under clause (i) for any
20 taxable year shall be made on a timely
21 filed return for such year. Such election,
22 once made, shall be irrevocable for such
23 taxable year. Such election shall not take
24 effect unless the organization designates
25 the apportionment as such in a written no-

1 tice mailed to its patrons during the pay-
2 ment period described in section 1382(d).

3 “(B) TREATMENT OF ORGANIZATIONS AND
4 PATRONS.—The amount of the credit appor-
5 tioned to any patrons under subparagraph
6 (A)—

7 “(i) shall not be included in the
8 amount determined under subsection (a)
9 with respect to the organization for the
10 taxable year, and

11 “(ii) shall be included in the amount
12 determined under subsection (a) for the
13 first taxable year of each patron ending on
14 or after the last day of the payment period
15 (as defined in section 1382(d)) for the tax-
16 able year of the organization or, if earlier,
17 for the taxable year of each patron ending
18 on or after the date on which the patron
19 receives notice from the cooperative of the
20 apportionment.

21 “(C) SPECIAL RULES FOR DECREASE IN
22 CREDITS FOR TAXABLE YEAR.—If the amount
23 of the credit of a cooperative organization de-
24 termined under subsection (a) for a taxable
25 year is less than the amount of such credit

1 shown on the return of the cooperative organi-
2 zation for such year, an amount equal to the
3 excess of—

4 “(i) such reduction, over

5 “(ii) the amount not apportioned to
6 such patrons under subparagraph (A) for
7 the taxable year,

8 shall be treated as an increase in tax imposed
9 by this chapter on the organization. Such in-
10 crease shall not be treated as tax imposed by
11 this chapter for purposes of determining the
12 amount of any credit under this chapter.

13 “(D) ELIGIBLE COOPERATIVE DEFINED.—
14 For purposes of this section the term ‘eligible
15 cooperative’ means a cooperative organization
16 described in section 1381(a) which is owned
17 more than 50 percent by agricultural producers
18 or by entities owned by agricultural producers.
19 For this purpose an entity owned by an agricul-
20 tural producer is one that is more than 50 per-
21 cent owned by agricultural producers.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 38(b), as amended by section __01,
24 is amended—

1 (A) in paragraph (36), by striking “plus”
2 at the end,

3 (B) in paragraph (37), by striking the pe-
4 riod at the end and inserting “, plus”, and

5 (C) by adding at the end the following new
6 paragraph:

7 “(38) the clean fuel production credit deter-
8 mined under section 45T(a).”.

9 (2) The table of sections for subpart D of part
10 IV of subchapter A of chapter 1, as amended by sec-
11 tion __01, is amended by adding at the end the fol-
12 lowing new item:

“Sec. 45T. Clean fuel production credit.”.

13 (3) Section 4101(a)(1) is amended by inserting
14 “every person producing a fuel eligible for the clean
15 fuel production credit (pursuant to section 45T),”
16 after “section 6426(b)(4)(A)),”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to transportation fuel produced
19 after December 31, 2017.

20 **SEC. 6022. TEMPORARY EXTENSION OF EXISTING FUEL IN-**
21 **CENTIVES.**

22 (a) SECOND GENERATION BIOFUEL PRODUCER
23 CREDIT.—

24 (1) IN GENERAL.—Section 40(b)(6) is amend-
25 ed—

- 1 (A) in subparagraph (E)(i)—
2 (i) in subclause (I), by striking “and”
3 at the end,
4 (ii) in subclause (II), by striking the
5 period at the end and inserting “, and”,
6 and
7 (iii) by inserting at the end the fol-
8 lowing new subclause:
9 “(III) qualifies as a transpor-
10 tation fuel (as defined in section
11 45T(e)(5)).”, and
12 (B) in subparagraph (J)(i), by striking
13 “2017” and inserting “2018”.

14 (2) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply to qualified second
16 generation biofuel production after December 31,
17 2016.

18 (b) BIODIESEL AND RENEWABLE DIESEL USED AS
19 FUEL.—

- 20 (1) IN GENERAL.—Section 40A is amended—
21 (A) in subsection (f)(3)(B), by striking “or
22 D396”, and
23 (B) in subsection (g), by striking “2016”
24 and inserting “2017”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to fuel sold or used
3 after December 31, 2016.

4 (c) CREDIT FOR BIODIESEL AND ALTERNATIVE
5 FUEL MIXTURES.—

6 (1) IN GENERAL.—Section 6426 is amended—

7 (A) in subsection (c)(6), by striking
8 “2016” and inserting “2017”,

9 (B) in subsection (d)—

10 (i) in paragraph (1), by striking
11 “motor vehicle” and inserting “highway ve-
12 hicle”,

13 (ii) in paragraph (2)(D), by striking
14 “liquefied”, and

15 (iii) in paragraph (5), by striking
16 “2016” and inserting “2017”, and

17 (C) in subsection (e), by amending para-
18 graph (3) to read as follows:

19 “(3) TERMINATION.—This subsection shall not
20 apply to any sale or use for any period after—

21 “(A) in the case of any alternative fuel
22 mixture sold or used by the taxpayer for the
23 purposes described in subsection (d)(1), Decem-
24 ber 31, 2017,

1 “(B) in the case of any sale or use involv-
2 ing hydrogen that is not for the purposes de-
3 scribed in subsection (d)(1), December 31,
4 2017, and

5 “(C) in the case of any sale or use not de-
6 scribed in subparagraph (A) or (B), December
7 31, 2016.”.

8 (2) EFFECTIVE DATE.—The amendments made
9 by this subsection shall apply to fuel sold or used
10 after December 31, 2016.

11 (d) BIODIESEL, BIODIESEL MIXTURES, AND ALTER-
12 NATIVE FUELS.—

13 (1) IN GENERAL.—Section 6427(e)(6) is
14 amended—

15 (A) in subparagraph (B), by striking
16 “2016” and inserting “2017”, and

17 (B) in subparagraph (C), by striking
18 “2016” and inserting “2017”.

19 (2) EFFECTIVE DATE.—The amendments made
20 by this subsection shall apply to fuel sold or used
21 after December 31, 2016.

1 **Subtitle C—Energy Efficiency**
2 **Incentives**

3 **SEC. 6031. CREDIT FOR NEW ENERGY EFFICIENT RESIDEN-**
4 **TIAL BUILDINGS.**

5 (a) IN GENERAL.—Section 45L is amended to read
6 as follows:

7 **“SEC. 45L. NEW ENERGY EFFICIENT HOME CREDIT.**

8 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
9 tion 38, in the case of an eligible contractor, the new en-
10 ergy efficient home credit for the taxable year is the appli-
11 cable amount for each qualified residence which is—

12 “(1) constructed by the eligible contractor, and

13 “(2) acquired by a person from such eligible
14 contractor for use as a residence during the taxable
15 year.

16 “(b) APPLICABLE AMOUNT.—

17 “(1) IN GENERAL.—For purposes of subsection
18 (a), the applicable amount shall be an amount equal
19 to \$1,500 increased (but not above \$3,000) by \$100
20 for every 5 percentage points by which the efficiency
21 ratio for the qualified residence is certified to be
22 greater than 25 percent.

23 “(2) EFFICIENCY RATIO.—For purposes of this
24 section, the efficiency ratio of a qualified residence

1 shall be equal to the quotient, expressed as a per-
2 centage, obtained by dividing—

3 “(A) an amount equal to the difference be-
4 tween—

5 “(i) the annual level of energy con-
6 sumption of the qualified residence, and

7 “(ii) the annual level of energy con-
8 sumption of the baseline residence, by

9 “(B) the annual level of energy consump-
10 tion of the baseline residence.

11 “(3) BASELINE RESIDENCE.—For purposes of
12 this section, the baseline residence shall be a resi-
13 dence which is—

14 “(A) comparable to the qualified residence,
15 and

16 “(B) constructed in accordance with the
17 standards of the 2015 International Energy
18 Conservation Code, as such Code (including
19 supplements) is in effect on the date of the en-
20 actment of the American Energy Innovation
21 Act.

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

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

1 “(A) the person who constructed the quali-
2 fied residence, or

3 “(B) in the case of a qualified residence
4 which is a manufactured home, the manufac-
5 tured home producer of such residence.

6 “(2) QUALIFIED RESIDENCE.—The term ‘quali-
7 fied residence’ means a dwelling unit—

8 “(A) located in the United States,

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

12 “(C) which is certified to have an annual
13 level of energy consumption that is less than
14 the baseline residence and an efficiency ratio of
15 not less than 25 percent.

16 “(3) CONSTRUCTION.—The term ‘construction’
17 does not include substantial reconstruction or reha-
18 bilitation.

19 “(d) CERTIFICATION.—

20 “(1) IN GENERAL.—A certification described in
21 this section shall be made—

22 “(A) in accordance with guidance pre-
23 scribed by, and

24 “(B) by a third-party that is accredited by
25 a certification program approved by,

1 the Secretary, in consultation with the Secretary of
2 Energy. Such guidance shall specify procedures and
3 methods for calculating annual energy consumption
4 levels, and shall include requirements to ensure the
5 safe operation of energy efficiency improvements and
6 that all improvements are installed according to the
7 applicable standards of such certification program.

8 “(2) COMPUTER SOFTWARE.—

9 “(A) IN GENERAL.—Any calculation under
10 paragraph (1) shall be prepared by qualified
11 computer software.

12 “(B) QUALIFIED COMPUTER SOFTWARE.—
13 For purposes of this paragraph, the term
14 ‘qualified computer software’ means software—

15 “(i) for which the software designer
16 has certified that the software meets all
17 procedures and detailed methods for calcu-
18 lating energy consumption levels as re-
19 quired by the Secretary, and

20 “(ii) which provides such forms as re-
21 quired to be filed by the Secretary in con-
22 nection with energy consumption levels and
23 the credit allowed under this section.

24 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
25 title, if a credit is allowed under this section in connection

1 with any expenditure for any property (other than a quali-
2 fied low-income building, as described in section 42(c)(2)),
3 the increase in the basis of such property which would (but
4 for this subsection) result from such expenditure shall be
5 reduced by the amount of the credit so determined.

6 “(f) COORDINATION WITH INVESTMENT CREDITS.—
7 For purposes of this section, expenditures taken into ac-
8 count under section 25D or 47 shall not be taken into
9 account under this section.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to any qualified residence acquired
12 after December 31, 2017.

13 **SEC. 6032. ENERGY EFFICIENCY CREDIT FOR EXISTING**
14 **RESIDENTIAL BUILDINGS.**

15 (a) IN GENERAL.—Section 25C is amended to read
16 as follows:

17 **“SEC. 25C. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
18 **MENTS TO RESIDENTIAL BUILDINGS.**

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

23 “(1) the applicable amount for the qualified res-
24 idence based on energy efficiency improvements

1 made by the taxpayer and placed in service during
2 such taxable year, or

3 “(2) 30 percent of the amount paid or incurred
4 by the taxpayer for energy efficiency improvements
5 made to the qualified residence that were placed in
6 service during such taxable year.

7 “(b) APPLICABLE AMOUNT.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a)(1), the applicable amount shall be an amount
10 equal to \$1,750 increased (but not above \$6,500) by
11 \$300 for every 5 percentage points by which the effi-
12 ciency ratio for the qualified residence is certified to
13 be greater than 20 percent.

14 “(2) EFFICIENCY RATIO.—For purposes of this
15 section, the efficiency ratio of a qualified residence
16 shall be equal to the quotient, expressed as a per-
17 centage, obtained by dividing—

18 “(A) an amount equal to the difference be-
19 tween—

20 “(i) the projected annual level of en-
21 ergy consumption of the qualified residence
22 after the energy efficiency improvements
23 have been placed in service, and

24 “(ii) the annual level of energy con-
25 sumption of such qualified residence prior

1 to the energy efficiency improvements
2 being placed in service, by

3 “(B) the annual level of energy consump-
4 tion described in subparagraph (A)(ii).

5 “(3) COORDINATION WITH CREDIT FOR RESI-
6 DENTIAL ENERGY EFFICIENT PROPERTY.—For pur-
7 poses of paragraph (2)(A), the determination of the
8 difference in annual levels of energy consumption of
9 the qualified residence shall not include any reduc-
10 tion in net energy consumption related to qualified
11 property or energy storage property for which a
12 credit was allowed under section 25D.

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

14 “(1) QUALIFIED RESIDENCE.—The term ‘quali-
15 fied residence’ means a dwelling unit—

16 “(A) located in the United States,

17 “(B) owned and used by the taxpayer as
18 the taxpayer’s principal residence (within the
19 meaning of section 121), and

20 “(C) which is certified to have—

21 “(i) a projected annual level of energy
22 consumption after the energy efficiency im-
23 provements have been placed in service
24 that is less than the annual level of energy

1 consumption prior to the energy efficiency
2 improvements being placed in service, and
3 “(ii) an efficiency ratio of not less
4 than 20 percent.

5 “(2) ENERGY EFFICIENCY IMPROVEMENTS.—

6 “(A) IN GENERAL.—The term ‘energy effi-
7 ciency improvements’ means any property in-
8 stalled on or in a dwelling unit which has been
9 certified to reduce the level of energy consump-
10 tion for such unit or to provide for onsite gen-
11 eration of electricity or useful thermal energy,
12 provided that—

13 “(i) the original use of such property
14 commences with the taxpayer, and

15 “(ii) such property reasonably can be
16 expected to remain in use for at least 5
17 years.

18 “(B) AMOUNTS PAID OR INCURRED FOR
19 ENERGY EFFICIENCY IMPROVEMENTS.—For
20 purposes of subsection (a)(2), the amount paid
21 or incurred by the taxpayer—

22 “(i) shall include expenditures for de-
23 sign and for labor costs properly allocable
24 to the onsite preparation, assembly, or
25 original installation of the property, and

1 “(ii) shall not include any expendi-
2 tures related to expansion of the building
3 envelope.

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

5 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
6 HOUSING CORPORATION.—In the case of an indi-
7 vidual who is a tenant-stockholder (as defined in sec-
8 tion 216) in a cooperative housing corporation (as
9 defined in such section), such individual shall be
10 treated as having made his tenant-stockholder’s pro-
11 portionate share (as defined in section 216(b)(3)) of
12 any expenditures for energy efficiency improvements
13 of such corporation.

14 “(2) CONDOMINIUMS.—

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

23 “(B) CONDOMINIUM MANAGEMENT ASSO-
24 CIATION.—For purposes of this paragraph, the
25 term ‘condominium management association’

1 means an organization which meets the require-
2 ments of paragraph (1) of section 528(c) (other
3 than subparagraph (E) thereof) with respect to
4 a condominium project substantially all of the
5 units of which are used as residences.

6 “(3) ALLOCATION IN CERTAIN CASES.—If less
7 than 80 percent of the use of a property is for non-
8 business purposes, only that portion of the expendi-
9 tures for energy efficiency improvements for such
10 property which is properly allocable to use for non-
11 business purposes shall be taken into account.

12 “(e) CERTIFICATION.—

13 “(1) IN GENERAL.—A certification described in
14 this section shall be made—

15 “(A) in accordance with guidance pre-
16 scribed by, and

17 “(B) by a third-party that is accredited by
18 a certification program approved by,

19 the Secretary, in consultation with the Secretary of
20 Energy. Such guidance shall specify procedures and
21 methods for calculating annual energy consumption
22 levels, with such calculations to take into account
23 onsite generation of electricity or useful thermal en-
24 ergy, and shall include requirements to ensure the
25 safe operation of energy efficiency improvements and

1 that all improvements are installed according to the
2 applicable standards of such certification program.

3 “(2) COMPUTER SOFTWARE.—

4 “(A) IN GENERAL.—Any calculation under
5 paragraph (1) shall be prepared by qualified
6 computer software.

7 “(B) QUALIFIED COMPUTER SOFTWARE.—

8 For purposes of this paragraph, the term
9 ‘qualified computer software’ has the same
10 meaning given such term under section
11 45L(d)(2).

12 “(f) BASIS ADJUSTMENT.—For purposes of this sub-
13 title, if a credit is allowed under this section for any ex-
14 penditures with respect to any energy efficiency improve-
15 ments, the increase in the basis of such property which
16 would (but for this subsection) result from such expendi-
17 tures shall be reduced by the amount of the credit so al-
18 lowed.

19 “(g) COORDINATION WITH INVESTMENT CREDITS.—

20 For purposes of this section, expenditures taken into ac-
21 count under section 25D or 47 shall not be taken into
22 account under this section.”.

23 (b) CONFORMING AMENDMENT.—The table of sec-
24 tions for subpart A of part IV of subchapter A of chapter
25 1 is amended by striking the item relating to section 25C

1 and inserting after the item relating to section 25B the
2 following item:

“Sec. 25C. Credit for energy efficiency improvements to residential buildings.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to any energy efficiency improve-
5 ments placed in service after December 31, 2017.

6 **SEC. 6033. DEDUCTION FOR NEW ENERGY EFFICIENT COM-**
7 **MERCIAL BUILDINGS.**

8 (a) **IN GENERAL.**—Section 179D is amended to read
9 as follows:

10 **“SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDING**
11 **DEDUCTION.**

12 “(a) **IN GENERAL.**—There shall be allowed as a de-
13 duction an amount equal to the applicable amount for each
14 qualified building placed in service by the taxpayer during
15 the taxable year.

16 “(b) **APPLICABLE AMOUNT.**—

17 “(1) **IN GENERAL.**—For purposes of subsection
18 (a), the applicable amount shall be an amount equal
19 to the product of—

20 “(A) the applicable dollar value, and

21 “(B) the square footage of the qualified
22 building.

23 “(2) **APPLICABLE DOLLAR VALUE.**—For pur-
24 poses of paragraph (1)(A), the applicable dollar
25 value shall be an amount equal to \$1.00 increased

1 (but not above \$4.75) by \$0.25 for every 5 percent-
2 age points by which the efficiency ratio for the quali-
3 fied building is certified to be greater than 25 per-
4 cent.

5 “(3) EFFICIENCY RATIO.—For purposes of this
6 section, the efficiency ratio of a qualified building
7 shall be equal to the quotient, expressed as a per-
8 centage, obtained by dividing—

9 “(A) an amount equal to the difference be-
10 tween—

11 “(i) the annual level of energy con-
12 sumption of the qualified building, and

13 “(ii) the annual level of energy con-
14 sumption of the baseline building, by

15 “(B) the annual level of energy consump-
16 tion of the baseline building.

17 “(4) BASELINE BUILDING.—For purposes of
18 this section, the baseline building shall be a building
19 which—

20 “(A) is comparable to the qualified build-
21 ing, and

22 “(B) meets the minimum requirements of
23 Standard 90.1-2013 of the American Society of
24 Heating, Refrigerating, and Air Conditioning
25 Engineers and the Illuminating Engineering So-

1 ciety of North America (as in effect on Decem-
2 ber 31, 2014).

3 “(c) QUALIFIED BUILDING.—The term ‘qualified
4 building’ means a building—

5 “(1) located in the United States,

6 “(2) which is owned by the taxpayer, and

7 “(3) which is certified to have an annual level
8 of energy consumption that is less than the baseline
9 building and an efficiency ratio of not less than 25
10 percent.

11 “(d) ALLOCATION OF DEDUCTION.—

12 “(1) IN GENERAL.—In the case of a qualified
13 building owned by an eligible entity, the Secretary
14 shall promulgate regulations to allow the allocation
15 of the deduction to the person primarily responsible
16 for designing the property in lieu of the owner of
17 such property, with such person to be treated as the
18 taxpayer for purposes of this section.

19 “(2) ELIGIBLE ENTITY.—For purposes of this
20 subsection, the term ‘eligible entity’ means—

21 “(A) a Federal, State, or local government
22 or a political subdivision thereof,

23 “(B) an Indian tribe (as defined in section
24 45A(c)(6)), or

1 “(C) an organization described in section
2 501(c) and exempt from tax under section
3 501(a).

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

9 “(f) CERTIFICATION.—

10 “(1) IN GENERAL.—A certification described in
11 this section shall be made—

12 “(A) in accordance with guidance pre-
13 scribed by, and

14 “(B) by a third-party that is accredited by
15 a certification program approved by,

16 the Secretary, in consultation with the Secretary of
17 Energy. Such guidance shall specify procedures and
18 methods for calculating annual energy consumption
19 levels, and shall include requirements to ensure the
20 safe operation of energy efficiency improvements and
21 that all improvements are installed according to the
22 applicable standards of such certification program.

23 “(2) COMPUTER SOFTWARE.—

1 “(A) IN GENERAL.—Any calculation under
2 paragraph (1) shall be prepared by qualified
3 computer software.

4 “(B) QUALIFIED COMPUTER SOFTWARE.—
5 For purposes of this paragraph, the term
6 ‘qualified computer software’ means software—

7 “(i) for which the software designer
8 has certified that the software meets all
9 procedures and detailed methods for calcu-
10 lating energy consumption levels as re-
11 quired by the Secretary, and

12 “(ii) which provides such forms as re-
13 quired to be filed by the Secretary in con-
14 nection with energy consumption levels and
15 the deduction allowed under this section.”.

16 (b) CONFORMING AMENDMENT.—The table of sec-
17 tions for part VI of subchapter B of chapter 1 is amended
18 by striking the item relating to section 179D and inserting
19 after the item relating to section 179C the following item:

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

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to any qualified building placed
22 in service after December 31, 2017.

1 **SEC. 6034. ENERGY EFFICIENCY DEDUCTION FOR EXISTING**
2 **COMMERCIAL BUILDINGS.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-
4 ter 1 is amended by inserting after section 179E the fol-
5 lowing new section:

6 **“SEC. 179F. DEDUCTION FOR ENERGY EFFICIENCY IM-**
7 **PROVEMENTS TO COMMERCIAL BUILDINGS.**

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

10 “(1) the applicable amount for the qualified
11 building based on energy efficiency improvements
12 made by the taxpayer and placed in service during
13 the taxable year, or

14 “(2) 30 percent of the amount paid or incurred
15 by the taxpayer for energy efficiency improvements
16 made to the qualified building which were placed in
17 service during the taxable year.

18 “(b) APPLICABLE AMOUNT.—

19 “(1) IN GENERAL.—For purposes of subsection
20 (a), the applicable amount shall be an amount equal
21 to the product of—

22 “(A) the applicable dollar value, and

23 “(B) the square footage of the qualified
24 building.

25 “(2) APPLICABLE DOLLAR VALUE.—For pur-
26 poses of paragraph (1), the applicable dollar value

1 shall be an amount equal to \$1.25 increased (but
2 not above \$9.25) by \$0.50 for every 5 percentage
3 points by which the efficiency ratio for the qualified
4 building is certified to be greater than 20 percent.

5 “(3) EFFICIENCY RATIO.—For purposes of this
6 section, the efficiency ratio of a qualified building
7 shall be equal to the quotient, expressed as a per-
8 centage, obtained by dividing—

9 “(A) an amount equal to the difference be-
10 tween—

11 “(i) the projected annual level of en-
12 ergy consumption of the qualified building
13 after the energy efficiency improvements
14 have been placed in service, and

15 “(ii) the annual level of energy con-
16 sumption of such qualified building prior
17 to the energy efficiency improvements
18 being placed in service, by

19 “(B) the annual level of energy consump-
20 tion described in subparagraph (A)(ii).

21 “(4) COORDINATION WITH CLEAN ENERGY IN-
22 VESTMENT CREDIT.—For purposes of paragraph
23 (3)(A), the determination of the difference in annual
24 levels of energy consumption of the qualified build-
25 ing shall not include any reduction in net energy

1 consumption related to qualified property or energy
2 storage property for which a credit was allowed
3 under section 48E.

4 “(c) DEFINITIONS.—

5 “(1) QUALIFIED BUILDING.—The term ‘quali-
6 fied building’ means a building—

7 “(A) located in the United States,

8 “(B) which is owned by the taxpayer, and

9 “(C) which is certified to have—

10 “(i) a projected annual level of energy
11 consumption after the energy efficiency im-
12 provements have been placed in service
13 that is less than the annual level of energy
14 consumption prior to the energy efficiency
15 improvements being placed in service, and

16 “(ii) an efficiency ratio of not less
17 than 20 percent.

18 “(2) ENERGY EFFICIENCY IMPROVEMENTS.—

19 “(A) IN GENERAL.—The term ‘energy effi-
20 ciency improvements’ means any property in-
21 stalled on or in a qualified building which has
22 been certified to reduce the level of energy con-
23 sumption for such building or to increase onsite
24 generation of electricity, provided that deprecia-

1 tion (or amortization in lieu of depreciation) is
2 allowable with respect to such property.

3 “(B) AMOUNTS PAID OR INCURRED FOR
4 ENERGY EFFICIENCY IMPROVEMENTS.—For
5 purposes of subsection (a)(2), the amount paid
6 or incurred by the taxpayer—

7 “(i) shall include expenditures for de-
8 sign and for labor costs properly allocable
9 to the onsite preparation, assembly, or
10 original installation of the property, and

11 “(ii) shall not include any expendi-
12 tures related to expansion of the building
13 envelope.

14 “(d) CERTIFICATION.—

15 “(1) IN GENERAL.—A certification described in
16 this section shall be made—

17 “(A) in accordance with guidance pre-
18 scribed by, and

19 “(B) by a third-party that is accredited by
20 a certification program approved by,

21 the Secretary, in consultation with the Secretary of
22 Energy. Such guidance shall specify procedures and
23 methods for calculating annual energy consumption
24 levels, with such calculations to take into account
25 onsite generation of electricity or useful thermal en-

1 ergy, and shall include requirements to ensure the
2 safe operation of energy efficiency improvements and
3 that all improvements are installed according to the
4 applicable standards of such certification program.

5 “(2) COMPUTER SOFTWARE.—

6 “(A) IN GENERAL.—Any calculation under
7 paragraph (1) shall be prepared by qualified
8 computer software.

9 “(B) QUALIFIED COMPUTER SOFTWARE.—

10 For purposes of this paragraph, the term
11 ‘qualified computer software’ has the same
12 meaning given such term under section
13 179D(f)(2).

14 “(e) ALLOCATION OF DEDUCTION.—

15 “(1) IN GENERAL.—In the case of a qualified
16 building owned by an eligible entity, the Secretary
17 shall promulgate regulations to allow the allocation
18 of the deduction to the person primarily responsible
19 for designing the energy efficiency improvements in
20 lieu of the owner of such property, with such person
21 to be treated as the taxpayer for purposes of this
22 section.

23 “(2) ELIGIBLE ENTITY.—For purposes of this
24 subsection, the term ‘eligible entity’ has the same
25 meaning given such term under section 179D(d)(2).

1 “(f) BASIS REDUCTION.—For purposes of this sub-
2 title, if a deduction is allowed under this section with re-
3 spect to any energy efficiency improvements, the basis of
4 such property shall be reduced by the amount of the de-
5 duction so allowed.

6 “(g) COORDINATION WITH OTHER CREDITS.—For
7 purposes of this section, expenditures taken into account
8 under section 47 or 48E shall not be taken into account
9 under this section.”.

10 (b) CONFORMING AMENDMENT.—

11 (1) Section 263(a) is amended—

12 (A) in subparagraph (K), by striking “or”
13 at the end,

14 (B) in subparagraph (L), by striking the
15 period and inserting “, or”, and

16 (C) by inserting at the end the following
17 new subparagraph:

18 “(M) expenditures for which a deduction is
19 allowed under section 179F.”.

20 (2) Section 312(k)(3)(B) is amended—

21 (A) in the heading, by striking “OR 179E”
22 and inserting “179E, OR 179F”, and

23 (B) by striking “or 179E” and inserting
24 “179E, or 179F”.

25 (3) Section 1016(a) is amended—

1 (A) in paragraph (36), by striking “and”
2 at the end,

3 (B) in paragraph (37), by striking the pe-
4 riod at the end and inserting “, and”, and

5 (C) by inserting at the end the following
6 new paragraph:

7 “(38) to the extent provided in section
8 179D(f).”.

9 (4) Section 1245(a) is amended—

10 (A) in paragraph (2)(C), by inserting
11 “179F,” after “179E,” and

12 (B) in paragraph (3)(C), by inserting
13 “179F,” after “179E,”.

14 (5) The table of sections for part VI of sub-
15 chapter B of chapter 1 is amended by inserting after
16 the item relating to section 179E the following new
17 item:

“Sec. 179F. Deduction for energy efficiency improvements to commercial build-
ings.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any energy efficiency improve-
20 ments placed in service after December 31, 2017.

1 **Subtitle D—Clean Electricity and**
2 **Fuel Bonds**

3 **SEC. 6041. CLEAN ENERGY BONDS.**

4 (a) IN GENERAL.—Subpart J of part IV of sub-
5 chapter A of chapter 1 is amended by adding at the end
6 the following new section:

7 **“SEC. 54BB. CLEAN ENERGY BONDS.**

8 “(a) IN GENERAL.—If a taxpayer holds a clean en-
9 ergy bond on one or more interest payment dates of the
10 bond during any taxable year, there shall be allowed as
11 a credit against the tax imposed by this chapter for the
12 taxable year an amount equal to the sum of the credits
13 determined under subsection (b) with respect to such
14 dates.

15 “(b) AMOUNT OF CREDIT.—The amount of the credit
16 determined under this subsection with respect to any in-
17 terest payment date for a clean energy bond is 28 percent
18 of the amount of interest payable by the issuer with re-
19 spect to such date.

20 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

21 “(1) IN GENERAL.—The credit allowed under
22 subsection (a) for any taxable year shall not exceed
23 the excess of—

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

4 “(B) the sum of the credits allowable
5 under this part (other than subpart C and this
6 subpart).

7 “(2) CARRYOVER OF UNUSED CREDIT.—If the
8 credit allowable under subsection (a) exceeds the
9 limitation imposed by paragraph (1) for such taxable
10 year, such excess shall be carried to the succeeding
11 taxable year and added to the credit allowable under
12 subsection (a) for such taxable year (determined be-
13 fore the application of paragraph (1) for such suc-
14 ceeding taxable year).

15 “(d) CLEAN ENERGY BOND.—

16 “(1) IN GENERAL.—For purposes of this sec-
17 tion, the term ‘clean energy bond’ means any bond
18 issued as part of an issue if—

19 “(A) 100 percent of the excess of the avail-
20 able project proceeds (as defined in section
21 54A(e)(4)) of such issue over the amounts in a
22 reasonably required reserve (within the meaning
23 of section 150(a)(3)) with respect to such issue
24 are to be used for capital expenditures incurred

1 by an entity described in subparagraph (B) for
2 1 or more qualified facilities,

3 “(B) the bond is issued by—

4 “(i) a governmental body (as defined
5 in paragraph (3) of section 54C(d)),

6 “(ii) a public power provider (as de-
7 fined in paragraph (2) of such section), or

8 “(iii) a cooperative electric company
9 (as defined in paragraph (4) of such sec-
10 tion), and

11 “(C) the issuer makes an irrevocable elec-
12 tion to have this section apply.

13 “(2) APPLICABLE RULES.—For purposes of ap-
14 plying paragraph (1)—

15 “(A) for purposes of section 149(b), a
16 clean energy bond shall not be treated as feder-
17 ally guaranteed by reason of the credit allowed
18 under subsection (a) or section 6433,

19 “(B) for purposes of section 148, the yield
20 on a clean energy bond shall be determined
21 without regard to the credit allowed under sub-
22 section (a), and

23 “(C) a bond shall not be treated as a clean
24 energy bond if the issue price has more than a
25 de minimis amount (determined under rules

1 similar to the rules of section 1273(a)(3)) of
2 premium over the stated principal amount of
3 the bond.

4 “(3) QUALIFIED FACILITY.—The term ‘quali-
5 fied facility’ means a facility—

6 “(A) which is described in subsection
7 (e)(3) of section 45S and has a greenhouse gas
8 emissions rate of less than 186 grams of CO₂e
9 per KWh (as such terms are defined in sub-
10 sections (b)(1) and (e)(1) of such section), or

11 “(B) which is described in subsection
12 (e)(4) of section 45T and only produces trans-
13 portation fuel which has an emissions rate of
14 less than 38.62 kilograms of CO₂e per mmBTU
15 (as such terms are defined in subsections (b)
16 and (e) of such section).

17 “(e) INTEREST PAYMENT DATE.—For purposes of
18 this section, the term ‘interest payment date’ means any
19 date on which the holder of record of the clean energy
20 bond is entitled to a payment of interest under such bond.

21 “(f) CREDIT PHASE OUT.—

22 “(1) ELECTRICAL PRODUCTION.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), in the case of a clean energy bond
25 for which the proceeds are used for capital ex-

1 penditures incurred by an entity for a qualified
2 facility described in subsection (d)(3)(A), if the
3 Secretary, in consultation with the Secretary of
4 Energy and the Administrator of the Environ-
5 mental Protection Agency, determines that the
6 annual greenhouse gas emissions from electrical
7 production in the United States are equal to or
8 less than the percentage specified in section
9 45S(d)(1), the amount of the credit determined
10 under subsection (b) with respect to any clean
11 energy bond issued during a calendar year de-
12 scribed in paragraph (3) shall be equal to the
13 product of—

14 “(i) the amount determined under
15 subsection (b) without regard to this sub-
16 section, multiplied by

17 “(ii) the phase-out percentage under
18 paragraph (3).

19 “(B) DEADLINE TO BEGIN PHASE-OUT.—
20 If the Secretary, in consultation with the Sec-
21 retary of Energy and the Administrator of the
22 Environmental Protection Agency, determines
23 that the annual greenhouse gas emissions from
24 electrical production in the United States for
25 each year before calendar year 2026 are greater

1 than the percentage specified in section
2 45S(d)(1), then the determination described in
3 subparagraph (A) shall be deemed to have been
4 made for calendar year 2025.

5 “(2) FUEL PRODUCTION.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), in the case of a clean energy bond
8 for which the proceeds are used for capital ex-
9 penditures incurred by an entity for a qualified
10 facility described in subsection (d)(3)(B), if the
11 Secretary, in consultation with the Secretary of
12 Energy and the Administrator of the Environ-
13 mental Protection Agency, determines that the
14 annual greenhouse gas emissions from transpor-
15 tation fuel produced and sold at retail annually
16 in the United States are equal to or less than
17 the percentage specified in section 45T(d)(1),
18 the amount of the credit determined under sub-
19 section (b) with respect to any clean energy
20 bond issued during a calendar year described in
21 paragraph (3) shall be equal to the product
22 of—

23 “(i) the amount determined under
24 subsection (b) without regard to this sub-
25 section, multiplied by

1 “(ii) the phase-out percentage under
2 paragraph (3).

3 “(B) DEADLINE TO BEGIN PHASE-OUT.—
4 If the Secretary, in consultation with the Sec-
5 retary of Energy and the Administrator of the
6 Environmental Protection Agency, determines
7 that the annual greenhouse gas emissions from
8 transportation fuel produced and sold at retail
9 annually in the United States for each year be-
10 fore calendar year 2026 are greater than the
11 percentage specified in section 45T(d)(1), then
12 the determination described in subparagraph
13 (A) shall be deemed to have been made for cal-
14 endar year 2025.

15 “(3) PHASE-OUT PERCENTAGE.—The phase-out
16 percentage under this paragraph is equal to—

17 “(A) for any bond issued during the first
18 calendar year following the calendar year in
19 which the determination described in paragraph
20 (1)(A) or (2)(A) is made, 75 percent,

21 “(B) for any bond issued during the sec-
22 ond calendar year following such determination
23 year, 50 percent,

1 “(C) for any bond issued during the third
2 calendar year following such determination
3 year, 25 percent, and

4 “(D) for any bond issued during any cal-
5 endar year subsequent to the year described in
6 subparagraph (C), 0 percent.

7 “(g) SPECIAL RULES.—

8 “(1) INTEREST ON CLEAN ENERGY BONDS IN-
9 CLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME
10 TAX PURPOSES.—For purposes of this title, interest
11 on any clean energy bond shall be includible in gross
12 income.

13 “(2) APPLICATION OF CERTAIN RULES.—Rules
14 similar to the rules of subsections (f), (g), (h), and
15 (i) of section 54A shall apply for purposes of the
16 credit allowed under subsection (a).

17 “(h) REGULATIONS.—The Secretary may prescribe
18 such regulations and other guidance as may be necessary
19 or appropriate to carry out this section and section
20 6433.”.

21 (b) CREDIT FOR QUALIFIED CLEAN ENERGY BONDS
22 ALLOWED TO ISSUER.—Subchapter B of chapter 65 of
23 subtitle F is amended by adding at the end the following
24 new section:

1 **“SEC. 6433. CREDIT FOR QUALIFIED CLEAN ENERGY BONDS**
2 **ALLOWED TO ISSUER.**

3 “(a) IN GENERAL.—The issuer of a qualified clean
4 energy bond shall be allowed a credit with respect to each
5 interest payment under such bond which shall be payable
6 by the Secretary as provided in subsection (b).

7 “(b) PAYMENT OF CREDIT.—

8 “(1) IN GENERAL.—The Secretary shall pay
9 (contemporaneously with each interest payment date
10 under such bond) to the issuer of such bond (or to
11 any person who makes such interest payments on
12 behalf of the issuer) 28 percent of the interest pay-
13 able under such bond on such date.

14 “(2) INTEREST PAYMENT DATE.—For purposes
15 of this subsection, the term ‘interest payment date’
16 means each date on which interest is payable by the
17 issuer under the terms of the bond.

18 “(c) APPLICATION OF ARBITRAGE RULES.—For pur-
19 poses of section 148, the yield on a qualified clean energy
20 bond shall be reduced by the credit allowed under this sec-
21 tion.

22 “(d) QUALIFIED CLEAN ENERGY BOND.—For pur-
23 poses of this section, the term ‘qualified clean energy
24 bond’ means a clean energy bond (as defined in section
25 54BB(d)) issued as part of an issue if the issuer, in lieu
26 of any credit allowed under section 54BB(a) with respect

1 to such bond, makes an irrevocable election to have this
2 section apply.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) The table of sections for subpart J of part
5 IV of subchapter A of chapter 1 is amended by add-
6 ing at the end the following new item:

“Sec. 54BB. Clean energy bonds.”.

7 (2) The heading of such subpart (and the item
8 relating to such subpart in the table of subparts for
9 part IV of subchapter A of chapter 1) are each
10 amended by striking “**Build America**
11 **Bonds**”and inserting “**Build America Bonds**
12 **and Clean Energy Bonds**”.

13 (3) The table of sections for subchapter B of
14 chapter 65 of subtitle F is amended by adding at
15 the end the following new item:

“Sec. 6433. Credit for qualified clean energy bonds allowed to issuer.”.

16 (4) Subparagraph (A) of section 6211(b)(4) is
17 amended by striking “and 6431” and inserting
18 “6431, and 6433”.

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