

115TH CONGRESS
1ST SESSION

S. _____

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

Mr. WYDEN (for himself, Mr. SCHUMER, Ms. STABENOW, Ms. CANTWELL, Mr. MENENDEZ, Mr. CARPER, Mr. CARDIN, Mr. BENNET, Mr. DURBIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mrs. SHAHEEN, Mrs. GILLIBRAND, Mr. COONS, Mr. SCHATZ, Mr. HEINRICH, Mr. KING, Mr. KAINE, Mr. BOOKER, Ms. DUCKWORTH, Ms. HASSAN, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Clean Energy for America Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—CLEAN ENERGY TAX CREDITS

Sec. 101. Clean energy production credit.

Sec. 102. Clean energy investment credit.

Sec. 103. Extensions and modifications of various energy provisions.

TITLE II—CLEAN FUEL TAX CREDITS

Sec. 201. Clean fuel production credit.

Sec. 202. Temporary extension of existing fuel and transportation incentives.

TITLE III—ENERGY EFFICIENCY INCENTIVES

Sec. 301. Credit for new energy efficient residential buildings.

Sec. 302. Heating and air conditioning replacement credit.

Sec. 303. Energy efficiency credit for existing residential buildings.

Sec. 304. Deduction for new energy efficient commercial buildings.

Sec. 305. Energy efficiency deduction for existing commercial buildings.

Sec. 306. Temporary extension of existing energy efficiency incentives.

TITLE IV—CLEAN ELECTRICITY AND FUEL BONDS

Sec. 401. Clean Energy Bonds.

6 **TITLE I—CLEAN ENERGY TAX** 7 **CREDITS**

8 **SEC. 101. CLEAN ENERGY PRODUCTION CREDIT.**

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

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

13 “(a) AMOUNT OF CREDIT.—

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

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

6 “(B) the kilowatt hours of electricity—

7 “(i) produced by the taxpayer at a
8 qualified facility, and

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

11 “(II) in the case of a qualified facility
12 which is equipped with a metering device
13 which is owned and operated by an unre-
14 lated person, sold, consumed, or stored by
15 the taxpayer during the taxable year.

16 “(2) APPLICABLE CREDIT RATE.—

17 “(A) IN GENERAL.—

18 “(i) MAXIMUM CREDIT RATE.—Except
19 as provided in clause (ii), the applicable
20 credit rate is 1.5 cents.

21 “(ii) REDUCTION OF CREDIT BASED
22 ON GREENHOUSE GAS EMISSION RATE.—
23 The applicable credit rate shall be reduced
24 (but not below zero) by an amount which
25 bears the same ratio to the amount in ef-

1 fect under clause (i) as the greenhouse gas
2 emissions rate for the qualified facility
3 bears to 325 grams of CO₂e per KWh.

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

8 “(b) GREENHOUSE GAS EMISSIONS RATE.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the term ‘greenhouse gas emissions rate’ means
11 the amount of greenhouse gases emitted into the at-
12 mosphere by a qualified facility in the production of
13 electricity, expressed as grams of CO₂e per KWh.

14 “(2) NON-FOSSIL FUEL COMBUSTION AND GAS-
15 IFICATION.—In the case of a qualified facility which
16 produces electricity through combustion or gasifi-
17 cation of a non-fossil fuel, the greenhouse gas emis-
18 sions rate for such facility shall be equal to the net
19 rate of greenhouse gases emitted into the atmos-
20 phere by such facility in the production of electricity,
21 expressed as grams of CO₂e per KWh.

22 “(3) ESTABLISHMENT OF SAFE HARBOR FOR
23 QUALIFIED FACILITIES.—

24 “(A) IN GENERAL.—The Secretary, in con-
25 sultation with the Administrator of the Envi-

1 ronmental Protection Agency, shall establish
2 safe-harbor greenhouse gas emissions rates for
3 types or categories of qualified facilities, which
4 a taxpayer may elect to use for purposes of this
5 section.

6 “(B) ROUNDING.—In establishing the safe-
7 harbor greenhouse gas emissions rates for
8 qualified facilities, the Secretary may round
9 such rates to the nearest multiple of 32.5
10 grams of CO₂e per KWh (or, in the case of a
11 greenhouse gas emissions rate which is less
12 than 16.25 grams of CO₂e per KWh, by round-
13 ing such rate to zero).

14 “(4) CARBON CAPTURE AND SEQUESTRATION
15 EQUIPMENT.—For purposes of this subsection, the
16 amount of greenhouse gases emitted into the atmos-
17 phere by a qualified facility in the production of
18 electricity shall not include any qualified carbon di-
19 oxide (as defined in section 48E(c)(3)(A)) that is
20 captured and disposed of by the taxpayer.

21 “(c) INFLATION ADJUSTMENT.—

22 “(1) IN GENERAL.—In the case of a calendar
23 year beginning after 2018, the 1.5 cent amount in
24 clause (i) of subsection (a)(2)(A) shall be adjusted
25 by multiplying such amount by the inflation adjust-

1 ment factor for the calendar year in which the sale
2 or use of the electricity occurs. If any amount as in-
3 creased under the preceding sentence is not a mul-
4 tiple of 0.1 cent, such amount shall be rounded to
5 the nearest multiple of 0.1 cent.

6 “(2) ANNUAL COMPUTATION.—The Secretary
7 shall, not later than April 1 of each calendar year,
8 determine and publish in the Federal Register the
9 inflation adjustment factor for such calendar year in
10 accordance with this subsection.

11 “(3) INFLATION ADJUSTMENT FACTOR.—The
12 term ‘inflation adjustment factor’ means, with re-
13 spect to a calendar year, a fraction the numerator
14 of which is the GDP implicit price deflator for the
15 preceding calendar year and the denominator of
16 which is the GDP implicit price deflator for the cal-
17 endar year 1992. The term ‘GDP implicit price
18 deflator’ means the most recent revision of the im-
19 plicit price deflator for the gross domestic product
20 as computed and published by the Department of
21 Commerce before March 15 of the calendar year.

22 “(d) CREDIT PHASE-OUT.—

23 “(1) IN GENERAL.—If the Secretary, in con-
24 sultation with the Secretary of Energy and the Ad-
25 ministrator of the Environmental Protection Agency,

1 determines that the annual greenhouse gas emis-
2 sions from electrical production in the United States
3 are equal to or less than 65 percent of the annual
4 greenhouse gas emissions from electrical production
5 in the United States for calendar year 2017, the
6 amount of the clean energy production credit under
7 subsection (a) for any qualified facility placed in
8 service during a calendar year described in para-
9 graph (2) shall be equal to the product of—

10 “(A) the amount of the credit determined
11 under subsection (a) without regard to this sub-
12 section, multiplied by

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

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

17 “(A) for a facility placed in service during
18 the first calendar year following the calendar
19 year in which the determination described in
20 paragraph (1) is made, 75 percent,

21 “(B) for a facility placed in service during
22 the second calendar year following such deter-
23 mination year, 50 percent,

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

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

7 “(e) DEFINITIONS.—In this section:

8 “(1) CO₂e PER KWh.—The term ‘CO₂e per
9 KWh’ means, with respect to any greenhouse gas,
10 the equivalent carbon dioxide per kilowatt hour of
11 electricity produced.

12 “(2) GREENHOUSE GAS.—The term ‘greenhouse
13 gas’ has the same meaning given such 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 “(3) QUALIFIED FACILITY.—

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

21 “(i) used for the generation of elec-
22 tricity, and

23 “(ii) originally placed in service after
24 December 31, 2018.

1 “(B) 10-YEAR PRODUCTION CREDIT.—For
2 purposes of this section, a facility shall only be
3 treated as a qualified facility during the 10-year
4 period beginning on the date the facility was
5 originally placed in service.

6 “(C) EXPANSION OF FACILITY; INCRE-
7 MENTAL PRODUCTION.—A qualified facility
8 shall include either of the following in connec-
9 tion with a facility described in subparagraph
10 (A)(i) that was previously placed in service, but
11 only to the extent of the increased amount of
12 electricity produced at the facility by reason of
13 the following:

14 “(i) A new unit placed in service after
15 December 31, 2018.

16 “(ii) Any efficiency improvements or
17 additions of capacity placed in service after
18 December 31, 2018.

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

22 “(i) a renewable electricity production
23 credit determined under section 45 is al-
24 lowed under section 38 for the taxable year
25 or any prior taxable year,

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

3 “(A) IN GENERAL.—For purposes of sub-
4 section (a)(1)(B), the kilowatt hours of elec-
5 tricity produced by a taxpayer at a qualified fa-
6 cility shall include any production in the form
7 of useful thermal energy by any combined heat
8 and power system property within such facility.

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

15 “(C) CONVERSION FROM BTU TO KWH.—

16 “(i) IN GENERAL.—For purposes of
17 subparagraph (A), the amount of kilowatt
18 hours of electricity produced in the form of
19 useful thermal energy shall be equal to the
20 quotient of—

21 “(I) the total useful thermal en-
22 ergy produced by the combined heat
23 and power system property within the
24 qualified facility, divided by

1 “(II) the heat rate for such facil-
2 ity.

3 “(ii) HEAT RATE.—For purposes of
4 this subparagraph, the term ‘heat rate’
5 means the amount of energy used by the
6 qualified facility to generate 1 kilowatt
7 hour of electricity, expressed as British
8 thermal units per net kilowatt hour gen-
9 erated.

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

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

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

3 “(5) 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 “(6) 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) is amended—

24 (A) in paragraph (35), by striking “plus”
25 at the end,

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

3 (C) by adding at the end the following new
4 paragraph:

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

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

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

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to facilities placed in service after
12 December 31, 2018.

13 **SEC. 102. CLEAN ENERGY INVESTMENT CREDIT.**

14 (a) BUSINESS CREDIT.—

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

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

19 “(a) INVESTMENT CREDIT FOR QUALIFIED PROP-
20 ERTY.—

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

1 “(A) the clean energy percentage of the
2 qualified investment for such taxable year with
3 respect to any qualified facility, plus

4 “(B) 30 percent of the qualified invest-
5 ment for such taxable year with respect to—

6 “(i) qualified carbon capture and se-
7 questration equipment, and

8 “(ii) energy storage property.

9 “(2) CLEAN ENERGY PERCENTAGE.—

10 “(A) IN GENERAL.—

11 “(i) MAXIMUM PERCENTAGE.—Except
12 as provided in clause (ii), the clean energy
13 percentage is 30 percent.

14 “(ii) REDUCTION OF PERCENTAGE
15 BASED ON GREENHOUSE GAS EMISSIONS
16 RATE.—The clean energy percentage shall
17 be reduced (but not below zero) by an
18 amount which bears the same ratio to 30
19 percent as the anticipated greenhouse gas
20 emissions rate for the qualified facility
21 bears to 325 grams of CO₂e per KWh.

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

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

6 “(b) QUALIFIED INVESTMENT WITH RESPECT TO
7 ANY QUALIFIED FACILITY.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a)(1)(A), the qualified investment with respect to
10 any qualified facility for any taxable year is the
11 basis of any qualified property placed in service by
12 the taxpayer during such taxable year which is part
13 of a qualified facility.

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

16 “(A) which is—

17 “(i) tangible personal property, or

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

22 “(B) with respect to which depreciation (or
23 amortization in lieu of depreciation) is allow-
24 able,

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

3 “(D) the original use of which commences
4 with the taxpayer.

5 “(3) QUALIFIED FACILITY.—The term ‘quali-
6 fied facility’ has the same meaning given such term
7 under section 45S(e)(3) (without regard to subpara-
8 graphs (B) and (D) thereof). Such term shall not in-
9 clude any facility for which a renewable electricity
10 production credit under section 45 or an energy
11 credit determined under section 48 is allowed under
12 section 38 for the taxable year or any prior taxable
13 year.

14 “(c) QUALIFIED INVESTMENT WITH RESPECT TO
15 QUALIFIED CARBON CAPTURE AND SEQUESTRATION
16 EQUIPMENT.—

17 “(1) IN GENERAL.—For purposes of subsection
18 (a)(1)(B)(i), the qualified investment with respect to
19 qualified carbon capture and sequestration equip-
20 ment for any taxable year is the basis of any quali-
21 fied carbon capture and sequestration equipment
22 placed in service by the taxpayer during such taxable
23 year.

24 “(2) QUALIFIED CARBON CAPTURE AND SE-
25 QUESTRATION EQUIPMENT.—The term ‘qualified

1 carbon capture and sequestration equipment’ means
2 property—

3 “(A) installed at a facility placed in service
4 before January 1, 2019, which produces elec-
5 tricity,

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

12 “(C) with respect to which depreciation is
13 allowable,

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

16 “(E) the original use of which commences
17 with the taxpayer.

18 “(3) QUALIFIED CARBON DIOXIDE.—

19 “(A) IN GENERAL.—The term ‘qualified
20 carbon dioxide’ means carbon dioxide captured
21 from an industrial source which—

22 “(i) would otherwise be released into
23 the atmosphere as industrial emission of
24 greenhouse gas,

1 “(ii) is measured at the source of cap-
2 ture and verified at the point of disposal or
3 injection,

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

6 “(iv) is captured and disposed of with-
7 in the United States (within the meaning
8 of section 638(1)) or a possession of the
9 United States (within the meaning of sec-
10 tion 638(2)).

11 “(B) SECURE GEOLOGICAL STORAGE.—
12 The term ‘secure geological storage’ has the
13 same meaning given to such term under section
14 45Q(d)(2).

15 “(d) QUALIFIED INVESTMENT WITH RESPECT TO
16 ENERGY STORAGE PROPERTY.—

17 “(1) IN GENERAL.—For purposes of subsection
18 (a)(1)(B)(ii), the qualified investment with respect
19 to energy storage property for any taxable year is
20 the basis of any energy storage property placed in
21 service by the taxpayer during such taxable year.

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

1 “(A) which receives, stores, and delivers
2 electricity or energy for conversion to electricity,
3 provided that such electricity is—

4 “(i) sold by the taxpayer to an unre-
5 lated person, or

6 “(ii) in the case of a facility which is
7 equipped with a metering device which is
8 owned and operated by an unrelated per-
9 son, sold or consumed by the taxpayer,

10 “(B) with respect to which depreciation is
11 allowable,

12 “(C) which is constructed, reconstructed,
13 erected, or acquired by the taxpayer,

14 “(D) the original use of which commences
15 with the taxpayer, and

16 “(E) which is placed in service after De-
17 cember 31, 2018.

18 “(e) GREENHOUSE GAS EMISSIONS RATE.—

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

23 “(2) ESTABLISHMENT OF SAFE HARBOR FOR
24 QUALIFIED PROPERTY.—

1 “(A) IN GENERAL.—The Secretary, in con-
2 sultation with the Administrator of the Envi-
3 ronmental Protection Agency, shall establish
4 safe-harbor greenhouse gas emissions rates for
5 types or categories of qualified property which
6 are part of a qualified facility, which a taxpayer
7 may elect to use for purposes of this section.

8 “(B) ROUNDING.—In establishing the safe-
9 harbor greenhouse gas emissions rates for
10 qualified property, the Secretary may round
11 such rates to the nearest multiple of 32.5
12 grams of CO₂e per KWh (or, in the case of a
13 greenhouse gas emissions rate which is less
14 than 16.25 grams of CO₂e per KWh, by round-
15 ing such rate to zero).

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

22 “(g) CREDIT PHASE-OUT.—

23 “(1) IN GENERAL.—If the Secretary, in con-
24 sultation with the Secretary of Energy and the Ad-
25 ministrator of the Environmental Protection Agency,

1 determines that the annual greenhouse gas emis-
2 sions from electrical production in the United States
3 are equal to or less than 65 percent of the annual
4 greenhouse gas emissions from electrical production
5 in the United States for calendar year 2017, the
6 amount of the clean energy investment credit under
7 subsection (a) for any qualified facility, qualified
8 carbon capture and sequestration equipment, or en-
9 ergy storage property placed in service during a cal-
10 endar year described in paragraph (2) shall be equal
11 to the product of—

12 “(A) the amount of the credit determined
13 under subsection (a) without regard to this sub-
14 section, multiplied by

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

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

19 “(A) for a facility or property placed in
20 service during the first calendar year following
21 the calendar year in which the determination
22 described in paragraph (1) is made, 75 percent,

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

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

4 “(D) for a facility or property placed in
5 service during any calendar year subsequent to
6 the year described in subparagraph (C), 0 per-
7 cent.

8 “(h) DEFINITIONS.—In this section:

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

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

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

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

23 “(2) with respect to any qualified carbon cap-
24 ture and sequestration equipment installed in a facil-
25 ity, the carbon dioxide emissions from such facility

1 cease to be captured or disposed of in a manner con-
2 sistent with the requirements of subsection (c),
3 the facility or equipment shall cease to be investment cred-
4 it property in the taxable year in which the determination
5 is made.

6 “(j) FINAL GUIDANCE.—Not later than January 1,
7 2018, the Secretary, in consultation with the Adminis-
8 trator of the Environmental Protection Agency, shall issue
9 final guidance regarding implementation of this section,
10 including calculation of greenhouse gas emission rates for
11 qualified facilities and determination of clean energy in-
12 vestment credits under this section.”.

13 (2) CONFORMING AMENDMENTS.—

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

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

21 (B) Section 49(a)(1)(C) is amended by
22 striking “and” at the end of clause (v), by
23 striking the period at the end of clause (vi) and
24 inserting a comma, and by adding at the end
25 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, 2018, 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) for use 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) for use 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 325 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 establish

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

5 “(B) ROUNDING.—In establishing the safe-
6 harbor greenhouse gas emissions rates for
7 qualified property, the Secretary may round
8 such rates to the nearest multiple of 32.5
9 grams of CO₂e per KWh (or, in the case of a
10 greenhouse gas emissions rate which is less
11 than 16.25 grams of CO₂e per KWh, by round-
12 ing such rate to zero).

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

15 “(1) which is tangible personal property,

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

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

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

22 “(5) which is originally placed in service after
23 December 31, 2018.

24 “(c) ENERGY STORAGE PROPERTY.—The term ‘en-
25 ergy storage property’ means property which—

1 “(1) receives, stores, and delivers electricity or
2 energy for conversion to electricity which is con-
3 sumed by the taxpayer, and

4 “(2) is equipped with a metering device which
5 is owned and operated by an unrelated person.

6 “(d) CARRYFORWARD OF UNUSED CREDIT.—If the
7 credit allowable under subsection (a) exceeds the limita-
8 tion imposed by section 26(a) for such taxable year re-
9 duced by the sum of the credits allowable under this sub-
10 part (other than this section), such excess shall be carried
11 to the succeeding taxable year and added to the credit al-
12 lowable under subsection (a) for such succeeding taxable
13 year.

14 “(e) CREDIT PHASE-OUT.—

15 “(1) IN GENERAL.—If the Secretary determines
16 that the annual greenhouse gas emissions from elec-
17 trical production in the United States are equal to
18 or less than the percentage specified in section
19 48E(g), the amount of the credit allowable under
20 subsection (a) for any qualified property or energy
21 storage property placed in service during a calendar
22 year described in paragraph (2) shall be equal to the
23 product 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 property 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 property placed in service during
13 the second calendar year following such deter-
14 mination year, 50 percent,

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

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

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

22 “(1) LABOR COSTS.—Expenditures for labor
23 costs properly allocable to the onsite preparation, as-
24 sembly, or original installation of the qualified prop-
25 erty or energy storage property and for piping or

1 wiring to interconnect such property to the dwelling
2 unit shall be taken into account for purposes of this
3 section.

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

12 “(3) CONDOMINIUMS.—

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

20 “(B) CONDOMINIUM MANAGEMENT ASSO-
21 CIATION.—For purposes of this paragraph, the
22 term ‘condominium management association’
23 means an organization which meets the require-
24 ments of paragraph (1) of section 528(c) (other
25 than subparagraph (E) thereof) with respect to

1 a condominium project substantially all of the
2 units of which are used as residences.

3 “(4) ALLOCATION IN CERTAIN CASES.—If less
4 than 80 percent of the use of a property is for non-
5 business purposes, only that portion of the expendi-
6 tures for such property which is properly allocable to
7 use for nonbusiness purposes shall be taken into ac-
8 count.

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

15 “(h) FINAL GUIDANCE.—Not later than January 1,
16 2018, the Secretary, in consultation with the Adminis-
17 trator of the Environmental Protection Agency, shall issue
18 final guidance regarding implementation of this section,
19 including calculation of greenhouse gas emission rates for
20 qualified property and determination of residential clean
21 energy property credits under this section.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Paragraph (1) of section 45(d) is
24 amended by striking “Such term” and all that
25 follows through the period and inserting the fol-

1 lowing: “Such term shall not include any facil-
2 ity with respect to which any expenditures for
3 qualified property (as defined in subsection (b)
4 of section 25D) which uses wind to produce
5 electricity is taken into account in determining
6 the credit under such section.”.

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

10 (C) The item relating to section 25D in
11 the table of contents for subpart A of part IV
12 of subchapter A of chapter 1 is amended to
13 read as follows:

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

14 (3) **EFFECTIVE DATE.**—The amendments made
15 by this section shall apply to property placed in serv-
16 ice after December 31, 2018.

17 **SEC. 103. EXTENSIONS AND MODIFICATIONS OF VARIOUS**
18 **ENERGY PROVISIONS.**

19 (a) **RESIDENTIAL ENERGY EFFICIENT PROPERTY.**—

20 (1) **IN GENERAL.**—Subsection (h) of section
21 25D is amended by striking “December 31, 2016”
22 and inserting “December 31, 2018”.

23 (2) **ELIMINATION OF PHASEOUT.**—Section 25D,
24 as amended by paragraph (1), is amended—

1 (A) in paragraphs (1) and (2) of sub-
2 section (a), by striking “the applicable percent-
3 age” each place it appears and inserting “30
4 percent”,

5 (B) in subsection (h), by striking “(Decem-
6 ber 31, 2021, in the case of any qualified solar
7 electric property expenditures and qualified
8 solar water heating property expenditures)”,

9 (C) by striking subsection (g), and

10 (D) by redesignating subsection (h) as sub-
11 section (g).

12 (3) EFFECTIVE DATE.—The amendments made
13 by this subsection shall apply to property placed in
14 service after December 31, 2016.

15 (b) ELECTRICITY PRODUCED FROM CERTAIN RE-
16 NEWABLE RESOURCES.—

17 (1) IN GENERAL.—The following provisions of
18 section 45(d) are each amended by striking “Janu-
19 ary 1, 2017” each place it appears and inserting
20 “January 1, 2019”:

21 (A) Paragraph (2)(A).

22 (B) Paragraph (3)(A).

23 (C) Paragraph (4)(B).

24 (D) Paragraph (6).

25 (E) Paragraph (7).

1 (F) Paragraph (9).

2 (G) Paragraph (11)(B).

3 (2) TERMINATION OF HALF-CREDIT RATE.—

4 Subparagraph (A) of section 45(b)(4) is amended by
5 inserting “and before 2017” after “after 2003”.

6 (3) EFFECTIVE DATE.—The amendments made
7 by this subsection shall take effect on January 1,
8 2017.

9 (c) CREDIT FOR PRODUCTION FROM ADVANCED NU-
10 CLEAR POWER FACILITIES.—Section 45J(d)(1)(B) is
11 amended by striking “2021” and inserting “2019”.

12 (d) REPEAL OF ENERGY EFFICIENT APPLIANCE
13 CREDIT.—

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

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 38(b) is amended by striking
19 paragraph (24).

20 (B) The table of sections for subpart D of
21 part IV of subchapter A of chapter 1 of subtitle
22 A is amended by striking the item relating to
23 section 45M.

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

4 (e) CREDIT FOR CARBON DIOXIDE SEQUESTRA-
5 TION.—Section 45Q(c) is amended—

6 (1) in paragraph (2), by striking “and” at the
7 end,

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

10 (3) by adding at the end the following new
11 paragraph:

12 “(4) which is placed in service before January
13 1, 2019.”.

14 (f) ELIMINATION OF PHASEOUT OF CREDITS FOR
15 WIND FACILITIES AND SOLAR ENERGY PROPERTY.—

16 (1) WIND FACILITIES.—

17 (A) IN GENERAL.—Paragraph (1) of sec-
18 tion 45(d) is amended by striking “January 1,
19 2020” and inserting “January 1, 2019”.

20 (B) PHASEOUT.—Subsection (b) of section
21 45 is amended by striking paragraph (5).

22 (C) QUALIFIED INVESTMENT CREDIT FA-
23 CILITY.—

24 (i) IN GENERAL.—Section
25 48(a)(5)(C)(ii) is amended by striking

1 “January 1, 2017” and all that follows
2 through “section 45(d)” and inserting
3 “January 1, 2019”.

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

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

10 (2) SOLAR ENERGY PROPERTY.—

11 (A) IN GENERAL.—Subclause (II) of sec-
12 tion 48(a)(2)(A)(i) is amended by striking
13 “property the construction of which begins be-
14 fore January 1, 2022” and inserting “periods
15 ending before January 1, 2019”.

16 (B) PHASEOUT.—Subsection (a) of section
17 48 is amended by striking paragraph (6).

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

23 (D) EFFECTIVE DATE.—The amendments
24 made by this paragraph shall take effect on
25 January 1, 2017.

1 (g) ENERGY CREDIT.—

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

4 (A) in clause (i), by inserting “but only
5 with respect to periods ending before January
6 1, 2019” after “swimming pool,” and

7 (B) in clause (ii), by striking “January 1,
8 2017” and inserting “January 1, 2019”.

9 (2) GEOTHERMAL ENERGY PROPERTY.—Section
10 48(a)(3)(A)(iii) is amended by inserting “with re-
11 spect to periods ending before January 1, 2019,
12 and” after “but only”.

13 (3) THERMAL ENERGY PROPERTY.—Section
14 48(a)(3)(A)(vii) is amended by striking “January 1,
15 2017” and inserting “January 1, 2019”.

16 (4) QUALIFIED FUEL CELL PROPERTY.—Sec-
17 tion 48(c)(1)(D) is amended by striking “December
18 31, 2016” and inserting “December 31, 2018”.

19 (5) QUALIFIED MICROTURBINE PROPERTY.—
20 Section 48(c)(2)(D) is amended by striking “Decem-
21 ber 31, 2016” and inserting “December 31, 2018”.

22 (6) COMBINED HEAT AND POWER SYSTEM
23 PROPERTY.—Section 48(c)(3)(A)(iv) is amended by
24 striking “January 1, 2017” and inserting “January
25 1, 2019”.

1 (7) QUALIFIED SMALL WIND ENERGY PROP-
2 ERTY.—Section 48(c)(4)(C) is amended by striking
3 “December 31, 2016” and inserting “December 31,
4 2018”.

5 (h) QUALIFYING ADVANCED ENERGY PROJECT
6 CREDIT.—

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

8 (A) by redesignating subsection (e) as sub-
9 section (f), and

10 (B) by inserting after subsection (d) the
11 following new subsection:

12 “(e) ADDITIONAL QUALIFYING ADVANCED ENERGY
13 PROGRAM.—

14 “(1) ESTABLISHMENT.—

15 “(A) IN GENERAL.—Not later than 180
16 days after the date of enactment of this sub-
17 section, the Secretary, in consultation with the
18 Secretary of Energy, shall establish an addi-
19 tional qualifying advanced energy project pro-
20 gram to consider and award certifications for
21 qualified investments eligible for credits under
22 this section to qualifying advanced energy
23 project sponsors.

24 “(B) LIMITATION.—The total amount of
25 credits that may be allocated under the pro-

1 gram described in subparagraph (A) shall not
2 exceed \$5,000,000,000.

3 “(2) CERTIFICATION.—

4 “(A) APPLICATION PERIOD.—Each appli-
5 cant for certification under this paragraph shall
6 submit an application containing such informa-
7 tion as the Secretary may require during the 2-
8 year period beginning on the date the Secretary
9 establishes the program under paragraph (1).

10 “(B) TIME TO MEET CRITERIA FOR CER-
11 TIFICATION.—Each applicant for certification
12 shall have 1 year from the date of acceptance
13 by the Secretary of the application during
14 which to provide to the Secretary evidence that
15 the requirements of the certification have been
16 met.

17 “(C) PERIOD OF ISSUANCE.—An applicant
18 which receives a certification shall have 3 years
19 from the date of issuance of the certification in
20 order to place the project in service and if such
21 project is not placed in service by that time pe-
22 riod, then the certification shall no longer be
23 valid.

24 “(3) SELECTION CRITERIA.—In determining
25 which qualifying advanced energy projects to certify

1 under this section, the Secretary shall consider the
2 same criteria described in subsection (d)(3).

3 “(4) REVIEW AND REDISTRIBUTION.—

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

8 “(B) REDISTRIBUTION.—The Secretary
9 may reallocate credits awarded under this sec-
10 tion if the Secretary determines that—

11 “(i) there is an insufficient quantity
12 of qualifying applications for certification
13 pending at the time of the review, or

14 “(ii) any certification made pursuant
15 to paragraph (2) has been revoked pursu-
16 ant to paragraph (2)(B) because the
17 project subject to the certification has been
18 delayed as a result of third party opposi-
19 tion or litigation to the proposed project.

20 “(C) REALLOCATION.—If the Secretary de-
21 termines that credits under this section are
22 available for reallocation pursuant to the re-
23 quirements set forth in paragraph (2), the Sec-
24 retary is authorized to conduct an additional
25 program for applications for certification.

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

6 (2) EFFECTIVE DATE.—The amendments made
7 by this subsection shall apply to periods after the
8 date of the enactment of this Act, under rules simi-
9 lar to the rules of section 48(m) of the Internal Rev-
10 enue Code of 1986 (as in effect on the day before
11 the date of the enactment of the Revenue Reconcili-
12 ation Act of 1990).

13 **TITLE II—CLEAN FUEL TAX**
14 **CREDITS**

15 **SEC. 201. CLEAN FUEL PRODUCTION CREDIT.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
17 chapter A of chapter 1, as amended by section 101, is
18 amended by adding at the end the following new section:

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

20 “(a) AMOUNT OF CREDIT.—

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

24 “(A) \$1.00 per gallon with respect to any
25 transportation fuel which is—

1 “(i) produced by the taxpayer at a
2 qualified facility, and

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

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

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

11 “(A) sold by the taxpayer to an unrelated
12 person—

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

16 “(ii) for use by such person as a
17 transportation fuel in a trade or business,
18 or

19 “(iii) who sells such fuel at retail to
20 another person and places such fuel in the
21 fuel tank of such other person, or

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

24 “(3) ROUNDING.—If any amount determined
25 under paragraph (1) is not a multiple of 0.1 cent,

1 such amount shall be rounded to the nearest mul-
2 tiple of 0.1 cent.

3 “(b) EMISSIONS FACTORS.—

4 “(1) EMISSIONS FACTOR.—

5 “(A) IN GENERAL.—The emissions factor
6 of a transportation fuel shall be an amount
7 equal to the quotient of—

8 “(i) an amount (not less than zero)
9 equal to —

10 “(I) 75, minus

11 “(II) the emissions rate for such
12 fuel, divided by

13 “(ii) 75.

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

1 CO₂e per mmBTU, which a taxpayer may elect
2 to use for purposes of this section.

3 “(C) ROUNDING OF SAFE HARBOR EMIS-
4 SIONS RATE.—The Secretary may round the
5 safe harbor emissions rates under subparagraph
6 (B) to the nearest multiple of 7.50 kilograms of
7 CO₂e per mmBTU, except that, in the case of
8 an emissions rate that is less than 3.75 kilo-
9 grams of CO₂e per mmBTU, the Secretary may
10 round such rate to zero.

11 “(D) PROVISIONAL SAFE HARBOR EMIS-
12 SIONS RATE.—

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

20 “(ii) ESTABLISHMENT OF PROVI-
21 SIONAL AND FINAL SAFE HARBOR EMIS-
22 SIONS RATE.—In the case of a transpor-
23 tation fuel for which a petition described in
24 clause (i) has been filed, the Secretary, in

1 consultation with the Administrator of the
2 Environmental Protection Agency, shall—

3 “(I) not later than 12 months
4 after the date on which the petition
5 was filed, provide a provisional safe
6 harbor emissions rate for such fuel
7 which a taxpayer may use for pur-
8 poses of this section, and

9 “(II) not later than 24 months
10 after the date on which the petition
11 was filed, establish the safe harbor
12 emissions rate for such fuel.

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

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

24 “(c) INFLATION ADJUSTMENT.—

1 “(1) IN GENERAL.—In the case of calendar
2 years beginning after 2019, the \$1.00 amount in
3 subsection (a)(1)(A) shall be adjusted by multiplying
4 such amount by the inflation adjustment factor for
5 the calendar year in which the sale or use of the
6 transportation fuel occurs. If any amount as in-
7 creased under the preceding sentence is not a mul-
8 tiple of 1 cent, such amount shall be rounded to the
9 nearest multiple of 1 cent.

10 “(2) INFLATION ADJUSTMENT FACTOR.—For
11 purposes of paragraph (1), the inflation adjustment
12 factor shall be the inflation adjustment factor deter-
13 mined and published by the Secretary pursuant to
14 section 45S(c), determined by substituting ‘calendar
15 year 2018’ for ‘calendar year 1992’ in paragraph (3)
16 thereof.

17 “(d) CREDIT PHASE-OUT.—

18 “(1) IN GENERAL.—If the Secretary, in con-
19 sultation with the Secretary of Energy and the Ad-
20 ministrator of the Environmental Protection Agency,
21 determines that the greenhouse gas emissions from
22 transportation fuel produced and sold at retail annu-
23 ally in the United States are equal to or less than
24 65 percent of the greenhouse gas emissions from
25 transportation fuel produced and sold at retail in the

1 United States during calendar year 2017, the
2 amount of the clean fuel production credit under
3 this section for any qualified facility placed in serv-
4 ice during a calendar year described in paragraph
5 (2) shall be equal to the product of—

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

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

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

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

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

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

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

1 “(e) DEFINITIONS.—In this section:

2 “(1) mmBTU.—The term ‘mmBTU’ means
3 1,000,000 British thermal units.

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

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

12 “(4) QUALIFIED FACILITY.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graphs (B) and (C), the term ‘qualified facility’
15 means a facility used for the production of
16 transportation fuels.

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

20 “(i) in the case of a facility that is
21 originally placed in service after December
22 31, 2018, for the 10-year period beginning
23 on the date such facility is placed in serv-
24 ice, or

1 “(ii) such fuel is produced in the
2 United States.

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

6 “(2) PRODUCTION ATTRIBUTABLE TO THE TAX-
7 PAYER.—In the case of a facility in which more than
8 1 person has an ownership interest, except to the ex-
9 tent provided in regulations prescribed by the Sec-
10 retary, production from the facility shall be allocated
11 among such persons in proportion to their respective
12 ownership interests in the gross sales from such fa-
13 cility.

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

23 “(4) PASS-THRU IN THE CASE OF ESTATES AND
24 TRUSTS.—Under regulations prescribed by the Sec-

1 retary, rules similar to the rules of subsection (d) of
2 section 52 shall apply.

3 “(5) ALLOCATION OF CREDIT TO PATRONS OF
4 AGRICULTURAL COOPERATIVE.—

5 “(A) ELECTION TO ALLOCATE.—

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

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

24 “(B) TREATMENT OF ORGANIZATIONS AND
25 PATRONS.—The amount of the credit appor-

1 tioned to any patrons under subparagraph
2 (A)—

3 “(i) shall not be included in the
4 amount determined under subsection (a)
5 with respect to the organization for the
6 taxable year, and

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

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

25 “(i) such reduction, over

1 “(ii) the amount not apportioned to
2 such patrons under subparagraph (A) for
3 the taxable year,
4 shall be treated as an increase in tax imposed
5 by this chapter on the organization. Such in-
6 crease shall not be treated as tax imposed by
7 this chapter for purposes of determining the
8 amount of any credit under this chapter.

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

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 38(b), as amended by section 101,
20 is amended—

21 (A) in paragraph (36), by striking “plus”
22 at the end,

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

1 (C) by adding at the end the following new
2 paragraph:

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

5 (2) The table of sections for subpart D of part
6 IV of subchapter A of chapter 1, as amended by sec-
7 tion 101, is amended by adding at the end the fol-
8 lowing new item:

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

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

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to transportation fuel produced
15 after December 31, 2018.

16 **SEC. 202. TEMPORARY EXTENSION OF EXISTING FUEL AND**
17 **TRANSPORTATION INCENTIVES.**

18 (a) ALTERNATIVE MOTOR VEHICLE CREDIT FOR
19 FUEL CELL MOTOR VEHICLES.—

20 (1) IN GENERAL.—Paragraph (1) of section
21 30B(k) is amended by striking “December 31,
22 2016” and inserting “December 31, 2026”.

23 (2) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to property purchased
25 after December 31, 2016.

1 (b) ALTERNATIVE FUEL VEHICLE REFUELING
2 PROPERTY CREDIT.—

3 (1) IN GENERAL.—Paragraph (1) of section
4 30C(g) is amended by striking “December 31,
5 2016” and inserting “December 31, 2018”.

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

9 (c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE
10 MOTOR VEHICLES.—

11 (1) 2- AND 3-WHEELED PLUG-IN ELECTRIC VE-
12 HICLES.—

13 (A) IN GENERAL.—Clause (ii) of section
14 30D(g)(3)(E) is amended to read as follows:

15 “(ii) after December 31, 2016, and
16 before January 1, 2019.”.

17 (B) EFFECTIVE DATE.—The amendments
18 made by this paragraph shall apply to vehicles
19 acquired after December 31, 2016.

20 (2) ELIMINATION ON LIMITATION ON NUMBER
21 OF VEHICLES ELIGIBLE FOR CREDIT.—

22 (A) IN GENERAL.—Section 30D, as
23 amended by paragraph (1), is amended—

24 (i) by striking subsection (e), and

1 (ii) by redesignating subsections (f)
2 and (g) as subsections (e) and (f), respec-
3 tively.

4 (B) CONFORMING AMENDMENT.—Para-
5 graph (37) of section 1016(a) is amended by
6 striking “section 30D(f)(1)” and inserting “sec-
7 tion 30D(e)(1)”.

8 (C) EFFECTIVE DATE.—The amendments
9 made by this paragraph shall apply to vehicles
10 sold after the date of the enactment of this Act.

11 (d) SECOND GENERATION BIOFUEL PRODUCER
12 CREDIT.—

13 (1) IN GENERAL.—Section 40(b)(6) is amend-
14 ed—

15 (A) in subparagraph (E)(i)—

16 (i) in subclause (I), by striking “and”
17 at the end,

18 (ii) in subclause (II), by striking the
19 period at the end and inserting “, and”,
20 and

21 (iii) by inserting at the end the fol-
22 lowing new subclause:

23 “(III) qualifies as a transpor-
24 tation fuel (as defined in section
25 45T(e)(5)).”, and

1 (B) in subparagraph (J)(i), by striking
2 “2017” and inserting “2019”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to qualified second
5 generation biofuel production after December 31,
6 2016.

7 (e) BIODIESEL AND RENEWABLE DIESEL USED AS
8 FUEL.—

9 (1) IN GENERAL.—Section 40A is amended—

10 (A) in subsection (f)(3)(B), by striking “or
11 D396”, and

12 (B) in subsection (g), by striking “2016”
13 and inserting “2018”.

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

17 (f) CREDIT FOR BIODIESEL AND ALTERNATIVE
18 FUEL MIXTURES.—

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

20 (A) in subsection (c)(6), by striking
21 “2016” and inserting “2018”,

22 (B) in subsection (d)—

23 (i) in paragraph (1), by striking
24 “motor vehicle” and inserting “highway ve-
25 hicle”,

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

3 (iii) in paragraph (5), by striking
4 “2016” and inserting “2018”, and

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

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

9 “(A) in the case of any alternative fuel
10 mixture sold or used by the taxpayer for the
11 purposes described in subsection (d)(1), Decem-
12 ber 31, 2018,

13 “(B) in the case of any sale or use involv-
14 ing hydrogen that is not for the purposes de-
15 scribed in subsection (d)(1), December 31,
16 2018, and

17 “(C) in the case of any sale or use not de-
18 scribed in subparagraph (A) or (B), December
19 31, 2016.”.

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

23 (3) SPECIAL RULE FOR CERTAIN PERIODS.—
24 Notwithstanding any other provision of law, in the
25 case of—

1 (A) any biodiesel mixture credit properly
2 determined under section 6426(c) of the Inter-
3 nal Revenue Code of 1986 for the periods after
4 December 31, 2016, and before the date of the
5 enactment of this Act, and

6 (B) any alternative fuel credit properly de-
7 termined under section 6426(d) of such Code
8 for such periods,

9 such credit shall be allowed, and any refund or pay-
10 ment attributable to such credit (including any pay-
11 ment under section 6427(e) of such Code) shall be
12 made, only in such manner as the Secretary of the
13 Treasury (or the Secretary's delegate) shall provide.
14 Such Secretary shall issue guidance within 30 days
15 after the date of the enactment of this Act providing
16 for a one-time submission of claims covering periods
17 described in the preceding sentence. Such guidance
18 shall provide for a 180-day period for the submission
19 of such claims (in such manner as prescribed by
20 such Secretary) to begin not later than 30 days after
21 such guidance is issued. Such claims shall be paid
22 by such Secretary not later than 60 days after re-
23 ceipt. If such Secretary has not paid pursuant to a
24 claim filed under this subsection within 60 days
25 after the date of the filing of such claim, the claim

1 shall be paid with interest from such date deter-
2 mined by using the overpayment rate and method
3 under section 6621 of such Code.

4 (g) BIODIESEL, BIODIESEL MIXTURES, AND ALTER-
5 NATIVE FUELS.—

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

8 (A) in subparagraph (B), by striking
9 “2016” and inserting “2018”, and

10 (B) in subparagraph (C), by striking
11 “2016” and inserting “2018”.

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

15 **TITLE III—ENERGY EFFICIENCY** 16 **INCENTIVES**

17 **SEC. 301. CREDIT FOR NEW ENERGY EFFICIENT RESIDEN-** 18 **TIAL BUILDINGS.**

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

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

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

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

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

5 “(b) APPLICABLE AMOUNT.—

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

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

16 “(A) an amount equal to the difference be-
17 tween—

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

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

22 “(B) the annual level of energy consump-
23 tion of the baseline residence.

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

4 “(A) comparable to the qualified residence,
5 and

6 “(B) constructed in accordance with the
7 standards of the 2015 International Energy
8 Conservation Code, as such Code (including
9 supplements) is in effect on the date of the en-
10 actment of the Clean Energy for America Act.

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

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

14 “(A) the person who constructed the quali-
15 fied residence, or

16 “(B) in the case of a qualified residence
17 which is a manufactured home, the manufac-
18 tured home producer of such residence.

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

21 “(A) located in the United States,

22 “(B) the construction of which is substan-
23 tially completed after the date of the enactment
24 of this section, and

1 “(C) which is certified to have an annual
2 level of energy consumption that is less than
3 the baseline residence and an efficiency ratio of
4 not less than 25 percent.

5 “(3) CONSTRUCTION.—The term ‘construction’
6 does not include substantial reconstruction or reha-
7 bilitation.

8 “(d) CERTIFICATION.—

9 “(1) IN GENERAL.—

10 “(A) ACCREDITED THIRD-PARTY.—A cer-
11 tification described in this section shall be made
12 by a third-party that is accredited by a certifi-
13 cation program approved by the Secretary, in
14 consultation with the Secretary of Energy.

15 “(B) GUIDANCE.—A certification described
16 in this section shall be made in accordance with
17 guidance prescribed by the Secretary, in con-
18 sultation with the Secretary of Energy. Such
19 guidance shall—

20 “(i) specify procedures and methods
21 for calculating annual energy consumption
22 levels, and

23 “(ii) include requirements to ensure
24 the safe operation of energy efficiency im-
25 provements and that all improvements are

1 installed according to the applicable stand-
2 ards of such certification program.

3 “(2) COMPUTER SOFTWARE.—

4 “(A) IN GENERAL.—Any calculation under
5 paragraph (1)(B)(i) shall be prepared by quali-
6 fied computer software.

7 “(B) QUALIFIED COMPUTER SOFTWARE.—

8 For purposes of this paragraph, the term
9 ‘qualified computer software’ means software—

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

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

19 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
20 title, if a credit is allowed under this section in connection
21 with any expenditure for any property (other than a quali-
22 fied low-income building, as described in section 42(c)(2)),
23 the increase in the basis of such property which would (but
24 for this subsection) result from such expenditure shall be
25 reduced by the amount of the credit so determined.

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

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to any qualified residence acquired
7 after December 31, 2018.

8 **SEC. 302. HEATING AND AIR CONDITIONING REPLACEMENT**
9 **CREDIT.**

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

13 **“SEC. 25E. HEATING AND AIR CONDITIONING REPLACE-**
14 **MENT CREDIT.**

15 “(a) IN GENERAL.—In the case of an individual,
16 there shall be allowed as a credit against the tax imposed
17 by this chapter for the taxable year an amount equal to
18 the lesser of—

19 “(1) the sum of the applicable qualified prop-
20 erty amounts for any qualified property placed in
21 service by the individual during such taxable year, or

22 “(2) \$1,500.

23 “(b) APPLICABLE QUALIFIED PROPERTY AMOUNT.—
24 For any qualified property, the applicable qualified prop-
25 erty amount shall be equal to the lesser of—

1 “(1) 50 percent of the amount paid or incurred
2 by the individual for such qualified property, or

3 “(2) \$500.

4 “(c) QUALIFIED PROPERTY.—The term ‘qualified
5 property’ means a furnace, boiler, condensing water heat-
6 er, central air conditioning unit, heat pump, or biomass
7 property which—

8 “(1) meets the requirements of the Energy Star
9 program which are in effect at the time that the
10 property was placed in service,

11 “(2) is installed according to applicable ACCA-
12 QI standards which are in effect at the time that the
13 property was placed in service,

14 “(3) is for use in a dwelling unit which is lo-
15 cated in the United States and used as a residence
16 by the individual, and

17 “(4) is reasonably expected to remain in service
18 in such dwelling unit for not less than 5 years.

19 “(d) BIOMASS PROPERTY.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the term ‘biomass property’ means any prop-
22 erty which—

23 “(A) uses the burning of biomass fuel to
24 heat a dwelling unit or to heat water for use in
25 a dwelling unit, and

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

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

7 “(1) the applicable amount for the qualified res-
8 idence based on energy efficiency improvements
9 made by the taxpayer and placed in service during
10 such taxable year, or

11 “(2) 30 percent of the amount paid or incurred
12 by the taxpayer for energy efficiency improvements
13 made to the qualified residence that were placed in
14 service during such taxable year.

15 “(b) APPLICABLE AMOUNT.—

16 “(1) IN GENERAL.—For purposes of subsection
17 (a)(1), the applicable amount shall be an amount
18 equal to \$1,750 increased (but not above \$6,500) by
19 \$300 for every 5 percentage points by which the effi-
20 ciency ratio for the qualified residence is certified to
21 be greater than 20 percent.

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

1 “(A) an amount equal to the difference be-
2 tween—

3 “(i) the projected annual level of en-
4 ergy consumption of the qualified residence
5 after the energy efficiency improvements
6 have been placed in service, and

7 “(ii) the annual level of energy con-
8 sumption of such qualified residence prior
9 to the energy efficiency improvements
10 being placed in service, by

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

13 “(3) COORDINATION WITH CREDIT FOR RESI-
14 DENTIAL ENERGY EFFICIENT PROPERTY.—For pur-
15 poses of paragraph (2)(A), the determination of the
16 difference in annual levels of energy consumption of
17 the qualified residence shall not include any reduc-
18 tion in net energy consumption related to—

19 “(A) qualified property or energy storage
20 property for which a credit was allowed under
21 section 25D, or

22 “(B) qualified property for which a credit
23 was allowed under section 25E.

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

1 “(ii) such property reasonably can be
2 expected to remain in use for at least 5
3 years.

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

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

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

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

16 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
17 HOUSING CORPORATION.—In the case of an indi-
18 vidual who is a tenant-stockholder (as defined in sec-
19 tion 216) in a cooperative housing corporation (as
20 defined in such section), such individual shall be
21 treated as having made his tenant-stockholder’s pro-
22 portionate share (as defined in section 216(b)(3)) of
23 any expenditures for energy efficiency improvements
24 of such corporation.

25 “(2) CONDOMINIUMS.—

1 “(A) IN GENERAL.—In the case of an indi-
2 vidual who is a member of a condominium man-
3 agement association with respect to a condo-
4 minium which the individual owns, such indi-
5 vidual shall be treated as having made the indi-
6 vidual’s proportionate share of any expenditures
7 for energy efficiency improvements of such as-
8 sociation.

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

17 “(3) ALLOCATION IN CERTAIN CASES.—If less
18 than 80 percent of the use of a property is for non-
19 business purposes, only that portion of the expendi-
20 tures for energy efficiency improvements for such
21 property which is properly allocable to use for non-
22 business purposes shall be taken into account.

23 “(e) CERTIFICATION.—

24 “(1) IN GENERAL.—

1 “(A) ACCREDITED THIRD-PARTY.—A cer-
2 tification described in this section shall be made
3 by a third-party that is accredited by a certifi-
4 cation program approved by the Secretary, in
5 consultation with the Secretary of Energy.

6 “(B) GUIDANCE.—A certification described
7 in this section shall be made in accordance with
8 guidance prescribed by the Secretary, in con-
9 sultation with the Secretary of Energy. Such
10 guidance shall—

11 “(i) specify procedures and methods
12 for calculating annual energy consumption
13 levels, and

14 “(ii) include requirements to ensure
15 the safe operation of energy efficiency im-
16 provements and that all improvements are
17 installed according to the applicable stand-
18 ards of such certification program.

19 “(2) COMPUTER SOFTWARE.—

20 “(A) IN GENERAL.—Any calculation under
21 paragraph (1)(B)(i) shall be prepared by quali-
22 fied computer software.

23 “(B) QUALIFIED COMPUTER SOFTWARE.—
24 For purposes of this paragraph, the term
25 ‘qualified computer software’ has the same

1 meaning given such term under section
2 45L(d)(2).

3 “(f) 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 energy efficiency improve-
6 ments, the increase in the basis of such property which
7 would (but for this subsection) result from such expendi-
8 tures shall be reduced by the amount of the credit so al-
9 lowed.

10 “(g) COORDINATION WITH INVESTMENT CREDITS.—
11 For purposes of this section, expenditures taken into ac-
12 count under section 25D or 47 shall not be taken into
13 account under this section.”.

14 (b) CONFORMING AMENDMENT.—The table of sec-
15 tions for subpart A of part IV of subchapter A of chapter
16 1 is amended by striking the item relating to section 25C
17 and inserting after the item relating to section 25B the
18 following item:

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

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to any energy efficiency improve-
21 ments placed in service after December 31, 2018.

22 **SEC. 304. DEDUCTION FOR NEW ENERGY EFFICIENT COM-**
23 **MERCIAL BUILDINGS.**

24 (a) IN GENERAL.—Section 179D is amended to read
25 as follows:

1 **“SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDING**
2 **DEDUCTION.**

3 “(a) IN GENERAL.—There shall be allowed as a de-
4 duction an amount equal to the applicable amount for each
5 qualified building placed in service by the taxpayer during
6 the taxable year.

7 “(b) APPLICABLE AMOUNT.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a), the applicable amount shall be an amount equal
10 to the product of—

11 “(A) the applicable dollar value, and

12 “(B) the square footage of the qualified
13 building.

14 “(2) APPLICABLE DOLLAR VALUE.—For pur-
15 poses of paragraph (1)(A), the applicable dollar
16 value shall be an amount equal to \$1.00 increased
17 (but not above \$4.75) by \$0.25 for every 5 percent-
18 age points by which the efficiency ratio for the quali-
19 fied building is certified to be greater than 25 per-
20 cent.

21 “(3) EFFICIENCY RATIO.—

22 “(A) IN GENERAL.—For purposes of this
23 section, the efficiency ratio of a qualified build-
24 ing shall be equal to the quotient, expressed as
25 a percentage, obtained by dividing—

1 “(i) an amount equal to the difference
2 between—

3 “(I) the annual level of energy
4 consumption of the qualified building,
5 and

6 “(II) the annual level of energy
7 consumption of the baseline building,
8 by

9 “(ii) the annual level of energy con-
10 sumption of the baseline building.

11 “(B) EXCLUSION OF PLUG LOADS.—For
12 purposes of determining the annual level of en-
13 ergy consumption of the qualified and baseline
14 buildings under this paragraph, any energy con-
15 sumption attributable to plug loads shall be ex-
16 cluded.

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 90.1-2016 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 the date
2 of the enactment of the Clean Energy for
3 America Act).

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

6 “(1) located in the United States,

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

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

12 “(d) ALLOCATION OF DEDUCTION.—

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

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

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

24 “(B) an Indian tribe (as defined in section
25 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.—

11 “(A) ACCREDITED THIRD-PARTY.—A cer-
12 tification described in this section shall be made
13 by a third-party that is accredited by a certifi-
14 cation program approved by the Secretary, in
15 consultation with the Secretary of Energy.

16 “(B) GUIDANCE.—A certification described
17 in this section shall be made in accordance with
18 guidance prescribed by the Secretary, in con-
19 sultation with the Secretary of Energy. Such
20 guidance shall—

21 “(i) specify procedures and methods
22 for calculating annual energy consumption
23 levels, and

24 “(ii) include requirements to ensure
25 the safe operation of energy efficiency im-

1 provements and that all improvements are
2 installed according to the applicable stand-
3 ards of such certification program.

4 “(2) COMPUTER SOFTWARE.—

5 “(A) IN GENERAL.—Any calculation under
6 paragraph (1)(B)(i) shall be prepared by quali-
7 fied computer software.

8 “(B) QUALIFIED COMPUTER SOFTWARE.—

9 For purposes of this paragraph, the term
10 ‘qualified computer software’ means software—

11 “(i) for which the software designer
12 has certified that the software meets all
13 procedures and detailed methods for calcu-
14 lating energy consumption levels as re-
15 quired by the Secretary, and

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

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

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

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any qualified building placed
3 in service after December 31, 2018.

4 **SEC. 305. ENERGY EFFICIENCY DEDUCTION FOR EXISTING**
5 **COMMERCIAL BUILDINGS.**

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

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

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

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

17 “(2) the amount paid or incurred by the tax-
18 payer for energy efficiency improvements made to
19 the qualified building which were placed in service
20 during the taxable year.

21 “(b) APPLICABLE AMOUNT.—

22 “(1) IN GENERAL.—For purposes of subsection
23 (a), the applicable amount shall be an amount equal
24 to the product of—

25 “(A) the applicable dollar value, and

1 “(B) the square footage of the qualified
2 building.

3 “(2) APPLICABLE DOLLAR VALUE.—For pur-
4 poses of paragraph (1), the applicable dollar value
5 shall be an amount equal to \$1.25 increased (but
6 not above \$9.25) by \$0.50 for every 5 percentage
7 points by which the efficiency ratio for the qualified
8 building is certified to be greater than 20 percent.

9 “(3) EFFICIENCY RATIO.—

10 “(A) IN GENERAL.—For purposes of this
11 section, the efficiency ratio of a qualified build-
12 ing shall be equal to the quotient, expressed as
13 a percentage, obtained by dividing—

14 “(i) an amount equal to the difference
15 between—

16 “(I) the projected annual level of
17 energy consumption of the qualified
18 building after the energy efficiency
19 improvements have been placed in
20 service, and

21 “(II) the annual level of energy
22 consumption of such qualified building
23 prior to the energy efficiency improve-
24 ments being placed in service, by

1 “(ii) the annual level of energy con-
2 sumption described in clause (i)(II).

3 “(B) EXCLUSION OF PLUG LOADS.—For
4 purposes of determining the annual level of en-
5 ergy consumption of the qualified building
6 under this paragraph, any energy consumption
7 attributable to plug loads shall be excluded.

8 “(4) COORDINATION WITH CLEAN ENERGY IN-
9 VESTMENT CREDIT.—For purposes of paragraph
10 (3)(A)(i), the determination of the difference in an-
11 nual levels of energy consumption of the qualified
12 building shall not include any reduction in net en-
13 ergy consumption related to qualified property or en-
14 ergy storage property for which a credit was allowed
15 under section 48E.

16 “(c) DEFINITIONS.—

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

19 “(A) located in the United States,

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

21 “(C) which is certified to have—

22 “(i) a projected annual level of energy
23 consumption after the energy efficiency im-
24 provements have been placed in service
25 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 qualified building which has
9 been certified to reduce the level of energy con-
10 sumption for such building, provided that de-
11 preciation (or amortization in lieu of deprecia-
12 tion) is allowable with respect to such property.

13 “(B) AMOUNTS PAID OR INCURRED FOR
14 ENERGY EFFICIENCY IMPROVEMENTS.—For
15 purposes of subsection (a)(2), the amount paid
16 or incurred by the taxpayer—

17 “(i) shall include expenditures for de-
18 sign and for labor costs properly allocable
19 to the onsite preparation, assembly, or
20 original installation of the property, and

21 “(ii) shall not include any expendi-
22 tures related to expansion of the building
23 floor area.

24 “(d) CERTIFICATION.—

25 “(1) IN GENERAL.—

1 “(A) ACCREDITED THIRD-PARTY.—A cer-
2 tification described in this section shall be made
3 by a third-party that is accredited by a certifi-
4 cation program approved by the Secretary, in
5 consultation with the Secretary of Energy.

6 “(B) GUIDANCE.—A certification described
7 in this section shall be made in accordance with
8 guidance prescribed by the Secretary, in con-
9 sultation with the Secretary of Energy. Such
10 guidance shall—

11 “(i) specify procedures and methods
12 for calculating annual energy consumption
13 levels, and

14 “(ii) include requirements to ensure
15 the safe operation of energy efficiency im-
16 provements and that all improvements are
17 installed according to the applicable stand-
18 ards of such certification program.

19 “(2) COMPUTER SOFTWARE.—

20 “(A) IN GENERAL.—Any calculation under
21 paragraph (1)(B)(i) shall be prepared by quali-
22 fied computer software.

23 “(B) QUALIFIED COMPUTER SOFTWARE.—
24 For purposes of this paragraph, the term
25 ‘qualified computer software’ has the same

1 meaning given such term under section
2 179D(f)(2).

3 “(e) ALLOCATION OF DEDUCTION.—

4 “(1) IN GENERAL.—In the case of a qualified
5 building owned by an eligible entity, the Secretary
6 shall promulgate regulations to allow the allocation
7 of the deduction to the person primarily responsible
8 for designing the energy efficiency improvements in
9 lieu of the owner of such property, with such person
10 to be treated as the taxpayer for purposes of this
11 section.

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

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

20 “(g) COORDINATION WITH OTHER CREDITS.—For
21 purposes of this section, expenditures taken into account
22 under section 47 or 48E shall not be taken into account
23 under this section.”.

24 (b) CONFORMING AMENDMENT.—

25 (1) Section 263(a) is amended—

1 (A) in subparagraph (K), by striking “or”
2 at the end,

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

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

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

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

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

12 (B) by striking “or 179E” and inserting
13 “179E, or 179F”.

14 (3) Section 1016(a) is amended—

15 (A) in paragraph (36), by striking “and”
16 at the end,

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

19 (C) by inserting at the end the following
20 new paragraph:

21 “(38) to the extent provided in section
22 179D(f).”.

23 (4) Section 1245(a) is amended—

24 (A) in paragraph (2)(C), by inserting
25 “179F,” after “179E,” and

1 (B) in paragraph (3)(C), by inserting
2 “179F,” after “179E,”.

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

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

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to any energy efficiency improve-
9 ments placed in service after December 31, 2018.

10 **SEC. 306. TEMPORARY EXTENSION OF EXISTING ENERGY**
11 **EFFICIENCY INCENTIVES.**

12 (a) NONBUSINESS ENERGY PROPERTY.—

13 (1) IN GENERAL.—Paragraph (2) of section
14 25C(g) is amended by striking “December 31,
15 2016” and inserting “December 31, 2018”.

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

19 (b) NEW ENERGY EFFICIENT HOME CREDIT.—

20 (1) IN GENERAL.—Subsection (g) of section
21 45L is amended by striking “December 31, 2016”
22 and inserting “December 31, 2018”.

23 (2) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to any qualified new

1 energy efficient home acquired after December 31,
2 2016.

3 (c) ENERGY EFFICIENT COMMERCIAL BUILDINGS
4 DEDUCTION.—

5 (1) IN GENERAL.—Subsection (h) of section
6 179D is amended by striking “December 31, 2016”
7 and inserting “December 31, 2018”.

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

11 **TITLE IV—CLEAN ELECTRICITY** 12 **AND FUEL BONDS**

13 **SEC. 401. CLEAN ENERGY BONDS.**

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

17 **“SEC. 54BB. CLEAN ENERGY BONDS.**

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

25 “(b) AMOUNT OF CREDIT.—

1 “(1) IN GENERAL.—The amount of the credit
2 determined under this subsection with respect to any
3 interest payment date for a clean energy bond is the
4 applicable percentage (as determined under para-
5 graph (2)) of the amount of interest payable by the
6 issuer with respect to such date.

7 “(2) APPLICABLE PERCENTAGE.—

8 “(A) IN GENERAL.—

9 “(i) MAXIMUM PERCENTAGE.—Except
10 as provided in clause (ii), the applicable
11 percentage is 70 percent.

12 “(ii) REDUCTION OF CREDIT BASED
13 ON GREENHOUSE GAS EMISSION RATE.—
14 The applicable percentage shall be reduced
15 (but not below zero) by an amount which
16 bears the same ratio to the percentage in
17 effect under clause (i) as—

18 “(I) in the case of a qualified fa-
19 cility described in subsection (e)(3) of
20 section 45S, the greenhouse gas emis-
21 sions rate for the facility bears to 325
22 grams of CO₂e per KWh (as such
23 terms are defined in subsections
24 (b)(1) and (e)(1) of such section), or

1 “(II) in the case of a qualified fa-
2 cility described in subsection (e)(4) of
3 section 45T, the average emissions
4 rate for all transportation fuel pro-
5 duced by such facility bears to 75
6 kilograms of CO₂e per mmBTU (as
7 such terms are defined in subsections
8 (b) and (e) of such section).

9 “(B) ROUNDING.—If any applicable per-
10 centage determined under subparagraph (A) is
11 not a whole percentage point, such percentage
12 shall be rounded to the nearest whole percent-
13 age point.

14 “(C) SAFE HARBOR RULES.—Rules similar
15 to the rules of sections 45S(b)(3) and 45T(b)
16 shall apply for purposes of this section.

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

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

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

1 “(B) the sum of the credits allowable
2 under this part (other than subpart C and this
3 subpart).

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

12 “(d) CLEAN ENERGY BOND.—

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

16 “(A) 100 percent of the excess of the avail-
17 able project proceeds (as defined in section
18 54A(e)(4)) of such issue over the amounts in a
19 reasonably required reserve (within the meaning
20 of section 150(a)(3)) with respect to such issue
21 are to be used for capital expenditures incurred
22 by an entity described in subparagraph (B) for
23 1 or more qualified facilities,

24 “(B) the bond is issued by—

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

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

5 “(iii) a cooperative electric company
6 (as defined in paragraph (4) of such sec-
7 tion), and

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

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

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

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

20 “(C) a bond shall not be treated as a clean
21 energy bond if the issue price has more than a
22 de minimis amount (determined under rules
23 similar to the rules of section 1273(a)(3)) of
24 premium over the stated principal amount of
25 the bond.

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

3 “(A) which is described in section
4 45S(e)(3), or

5 “(B) which is described in section
6 45T(e)(4) and only produces transportation fuel
7 which has an emissions rate of less than 75
8 kilograms of CO₂e per mmBTU (as such terms
9 are defined in subsections (b) and (e) of such
10 section) .

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

15 “(f) CREDIT PHASE OUT.—

16 “(1) ELECTRICAL PRODUCTION.—In the case of
17 a clean energy bond for which the proceeds are used
18 for capital expenditures incurred by an entity for a
19 qualified facility described in subsection (d)(3)(A), if
20 the Secretary, in consultation with the Secretary of
21 Energy 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 are equal to or less than the
25 percentage specified in section 45S(d)(1), the

1 amount of the credit determined under subsection
2 (b) with respect to any clean energy bond issued
3 during a calendar year described in paragraph (3)
4 shall be equal to the product of—

5 “(A) the amount determined under sub-
6 section (b) without regard to this subsection,
7 multiplied by

8 “(B) the phase-out percentage under para-
9 graph (3).

10 “(2) FUEL PRODUCTION.—In the case of a
11 clean energy bond for which the proceeds are used
12 for capital expenditures incurred by an entity for a
13 qualified facility described in subsection (d)(3)(B), if
14 the Secretary, in consultation with the Secretary of
15 Energy and the Administrator of the Environmental
16 Protection Agency, determines that the annual
17 greenhouse gas emissions from transportation fuel
18 produced and sold at retail annually in the United
19 States are equal to or less than the percentage speci-
20 fied in section 45T(d)(1), the amount of the credit
21 determined under subsection (b) with respect to any
22 clean energy bond issued during a calendar year de-
23 scribed in paragraph (3) shall be equal to the prod-
24 uct of—

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

4 “(B) the phase-out percentage under para-
5 graph (3).

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

8 “(A) for any bond issued during the first
9 calendar year following the calendar year in
10 which the determination described in paragraph
11 (1)(A) or (2)(A) is made, 75 percent,

12 “(B) for any bond issued during the sec-
13 ond calendar year following such determination
14 year, 50 percent,

15 “(C) for any bond issued during the third
16 calendar year following such determination
17 year, 25 percent, and

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

21 “(g) SPECIAL RULES.—

22 “(1) INTEREST ON CLEAN ENERGY BONDS IN-
23 CLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME
24 TAX PURPOSES.—For purposes of this title, interest

1 on any clean energy bond shall be includible in gross
2 income.

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

7 “(h) REGULATIONS.—The Secretary may prescribe
8 such regulations and other guidance as may be necessary
9 or appropriate to carry out this section and section
10 6433.”.

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

15 **“SEC. 6433. CREDIT FOR QUALIFIED CLEAN ENERGY BONDS**
16 **ALLOWED TO ISSUER.**

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

21 “(b) PAYMENT OF CREDIT.—

22 “(1) IN GENERAL.—The Secretary shall pay
23 (contemporaneously with each interest payment date
24 under such bond) to the issuer of such bond (or to
25 any person who makes such interest payments on

1 behalf of the issuer) the applicable percentage (as
2 determined under subsection (b) of section 54BB) of
3 the interest payable under such bond on such date.

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

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

12 “(d) QUALIFIED CLEAN ENERGY BOND.—For pur-
13 poses of this section, the term ‘qualified clean energy
14 bond’ means a clean energy bond (as defined in section
15 54BB(d)) issued as part of an issue if the issuer, in lieu
16 of any credit allowed under section 54BB(a) with respect
17 to such bond, makes an irrevocable election to have this
18 section apply.”.

19 (c) CONFORMING AMENDMENTS.—

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

 “Sec. 54BB. Clean energy bonds.”.

23 (2) The heading of such subpart (and the item
24 relating to such subpart in the table of subparts for
25 part IV of subchapter A of chapter 1) are each

1 amended by striking “**Build America**
2 **Bonds**” and inserting “**Build America Bonds**
3 **and Clean Energy Bonds**”.

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

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

7 (4) Subparagraph (A) of section 6211(b)(4) is
8 amended by striking “and 6431” and inserting
9 “6431, and 6433”.

10 (d) GROSS-UP OF PAYMENT TO ISSUERS IN CASE OF
11 SEQUESTRATION.—

12 (1) IN GENERAL.—In the case of any payment
13 under subsection (b) of section 6433 of the Internal
14 Revenue Code of 1986 (as added by this Act) made
15 after the date of the enactment of this Act to which
16 sequestration applies, the amount of such payment
17 shall be increased to an amount equal to—

18 (A) such payment (determined before such
19 sequestration), multiplied by

20 (B) the quotient obtained by dividing 1 by
21 the amount by which 1 exceeds the percentage
22 reduction in such payment pursuant to such se-
23 questration.

24 (2) SEQUESTRATION.—For purposes of this
25 subsection, the term “sequestration” means any re-

1 duction in direct spending ordered by the President
2 under the Balanced Budget and Emergency Deficit
3 Control Act of 1985 or the Statutory Pay-As-You-
4 Go Act of 2010.

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