

113TH CONGRESS
2^D SESSION

S. 2189

To amend the Internal Revenue Code of 1986 to improve and extend the deduction for new and existing energy-efficient commercial buildings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2014

Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to improve and extend the deduction for new and existing energy-efficient commercial buildings, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Energy Efficiency Tax Incentives Act”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 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; amendment of 1986 Code; table of contents.

TITLE I—COMMERCIAL BUILDING MODERNIZATION

Sec. 101. Extension and modification of deduction for energy-efficient commercial buildings.

Sec. 102. Deduction for retrofits of existing commercial and multifamily buildings.

TITLE II—HOME ENERGY IMPROVEMENTS

Sec. 201. Performance based home energy improvements.

TITLE III—INDUSTRIAL ENERGY AND WATER EFFICIENCY

Sec. 301. Modifications in credit for combined heat and power system property.

Sec. 302. Investment tax credit for biomass heating property.

Sec. 303. Investment tax credit for waste heat to power property.

Sec. 304. Motor energy efficiency improvement tax credit.

Sec. 305. Credit for replacement of CFC refrigerant chiller.

Sec. 306. Qualifying efficient industrial process water use project credit.

6 TITLE I—COMMERCIAL 7 BUILDING MODERNIZATION

8 SEC. 101. EXTENSION AND MODIFICATION OF DEDUCTION 9 FOR ENERGY-EFFICIENT COMMERCIAL 10 BUILDINGS.

11 (a) EXTENSION.—

12 (1) THROUGH 2016.—Section 179D(h) is
 13 amended by striking “December 31, 2013” and in-
 14 serting “December 31, 2016”.

15 (2) INCLUSION OF MULTIFAMILY BUILDINGS.—

1 (A) IN GENERAL.—Subparagraph (B) of
 2 section 179D(c)(1) is amended by striking
 3 “building” and inserting “commercial building
 4 or multifamily building”.

5 (B) DEFINITIONS.—Subsection (c) of sec-
 6 tion 179D is amended by adding at the end the
 7 following new paragraphs:

8 “(3) COMMERCIAL BUILDING.—The term ‘com-
 9 mercial building’ means a building with a primary
 10 use or purpose other than as residential housing.

11 “(4) MULTIFAMILY BUILDING.—The term ‘mul-
 12 tifamily building’ means a structure of 5 or more
 13 dwelling units with a primary use as residential
 14 housing, and includes such buildings owned and op-
 15 erated as a condominium, cooperative, or other com-
 16 mon interest community.”.

17 (b) INCREASE IN MAXIMUM AMOUNT OF DEDUC-
 18 TION.—

19 (1) IN GENERAL.—Subparagraph (A) of section
 20 179D(b)(1) is amended by striking “\$1.80” and in-
 21 serting “\$3.00”.

22 (2) PARTIAL ALLOWANCE.—Paragraph (1) of
 23 section 179D(d) is amended to read as follows:

24 “(1) PARTIAL ALLOWANCE.—

1 “(A) IN GENERAL.—Except as provided in
2 subsection (f), if—

3 “(i) the requirement of subsection
4 (c)(1)(D) is not met, but

5 “(ii) there is a certification in accord-
6 ance with paragraph (6) that—

7 “(I) any system referred to in
8 subsection (c)(1)(C) satisfies the en-
9 ergy-savings targets established by the
10 Secretary under subparagraph (B)
11 with respect to such system, or

12 “(II) the systems referred to in
13 subsection (c)(1)(C)(ii) and subsection
14 (c)(1)(C)(iii) together satisfy the en-
15 ergy-savings targets established by the
16 Secretary under subparagraph (B)
17 with respect to such systems,

18 then the requirement of subsection (c)(1)(D)
19 shall be treated as met with respect to such sys-
20 tem or systems, and the deduction under sub-
21 section (a) shall be allowed with respect to en-
22 ergy-efficient commercial building property in-
23 stalled as part of such system and as part of
24 a plan to meet such targets, except that sub-
25 section (b) shall be applied to such property de-

1 scribed in clause (ii)(I) by substituting ‘\$1.00’
2 for ‘\$3.00’ and to such property described in
3 clause (ii)(II) by substituting ‘\$2.20’ for
4 ‘\$3.00’.

5 “(B) REGULATIONS.—

6 “(i) IN GENERAL.—The Secretary,
7 after consultation with the Secretary of
8 Energy, shall promulgate regulations es-
9 tablishing a target for each system de-
10 scribed in subsection (c)(1)(C) which, if
11 such targets were met for all such systems,
12 the property would meet the requirements
13 of subsection (c)(1)(D).

14 “(ii) SAFE HARBOR FOR COMBINED
15 SYSTEMS.—The Secretary, after consulta-
16 tion with the Secretary of Energy, and not
17 later than 6 months after the date of the
18 enactment of the Energy Efficiency Tax
19 Incentives Act, shall promulgate regula-
20 tions regarding combined envelope and me-
21 chanical system performance that detail
22 appropriate components, efficiency levels,
23 or other relevant information for the sys-
24 tems referred to in subsection (c)(1)(C)(ii)
25 and subsection (c)(1)(C)(iii) together to be

1 deemed to have achieved two-thirds of the
2 requirements of subsection (e)(1)(D).”.

3 (c) DENIAL OF DOUBLE BENEFIT RULES.—

4 (1) IN GENERAL.—Section 179D is amended by
5 redesignating subsection (h) as subsection (i) and by
6 inserting after subsection (g) the following new sub-
7 section:

8 “(h) TAX INCENTIVES NOT AVAILABLE.—Energy-ef-
9 ficient measures for which a deduction is allowed under
10 this section shall not be eligible for a deduction under sec-
11 tion 179F.”.

12 (2) LOW-INCOME HOUSING EXCEPTION TO
13 BASIS REDUCTION.—Subsection (e) of section 179D
14 is amended by inserting “(other than property
15 placed in service in a qualified low-income building
16 (within the meaning of section 42))” after “building
17 property”.

18 (d) ALLOCATION OF DEDUCTION.—Paragraph (4) of
19 section 179D(d) is amended to read as follows:

20 “(4) ALLOCATION OF DEDUCTION.—

21 “(A) IN GENERAL.—Not later than 180
22 days after the date of the enactment of this
23 subsection, the Secretary, in consultation with
24 the Secretary of Energy, shall promulgate a
25 regulation to allow the owner of a commercial

1 or multifamily building, including a govern-
2 ment, tribal, or non-profit owner, to allocate
3 any deduction allowed under this section, or a
4 portion thereof, to the person primarily respon-
5 sible for designing the property in lieu of the
6 owner or to a commercial tenant that leases or
7 otherwise occupies space in such building pur-
8 suant to a written agreement. Such person shall
9 be treated as the taxpayer for purposes of this
10 section.

11 “(B) FORM OF ALLOCATION.—An alloca-
12 tion made under this paragraph shall be in
13 writing and in a form that meets the form of
14 allocation requirements in Notice 2008–40 of
15 the Internal Revenue Service.

16 “(C) PROVISION OF ALLOCATION.—Not
17 later than 30 days after receipt of a written re-
18 quest from a person eligible to receive an alloca-
19 tion under this paragraph, the owner of a build-
20 ing that makes an allocation under this para-
21 graph shall provide the form of allocation (as
22 described in subparagraph (B)) to such person.

23 “(D) ALLOCATION FROM PUBLIC OWNER
24 OF BUILDING.—In the case of a commercial
25 building or multifamily building that is owned

1 by a Federal, State, or local government or a
2 subdivision thereof, Notice 2006–52 of the In-
3 ternal Revenue Service, as amplified by Notice
4 2008–40, shall apply to any allocation.”.

5 (e) TREATMENT OF BASIS IN CONTEXT OF ALLOCA-
6 TION.—Subsection (e) of section 179D, as amended by
7 subsection (c)(2), is amended by inserting “or so allo-
8 cated” after “so allowed”.

9 (f) EARNINGS AND PROFITS CONFORMITY FOR REAL
10 ESTATE INVESTMENT TRUSTS.—Subparagraph (B) of
11 section 312(k)(3) is amended—

12 (1) by striking “.—For purposes of” and in-
13 serting “.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in clause (ii), for purposes of”, and

16 (2) by adding at the end the following new
17 clause:

18 “(ii) EARNINGS AND PROFITS CON-
19 FORMITY FOR REAL ESTATE INVESTMENT
20 TRUSTS.—

21 “(I) IN GENERAL.—For purposes
22 of computing the earnings and profits
23 of a real estate investment trust
24 (other than a captive real estate in-
25 vestment trust), the entire amount de-

1 ductible under section 179D shall be
2 allowed as deductions in the taxable
3 years for which such amounts are
4 claimed under such section.

5 “(II) CAPTIVE REAL ESTATE IN-
6 VESTMENT TRUST.—The term ‘captive
7 real estate investment trust’ means a
8 real estate investment trust the shares
9 or beneficial interests of which are not
10 regularly traded on an established se-
11 curities market and more than 50 per-
12 cent of the voting power or value of
13 the beneficial interests or shares of
14 which are owned or controlled, directly
15 or indirectly, or constructively, by a
16 single entity that is treated as an as-
17 sociation taxable as a corporation
18 under this title and is not exempt
19 from taxation pursuant to the provi-
20 sions of section 501(a).

21 “(III) RULES OF APPLICATION.—
22 For purposes of this clause, the con-
23 structive ownership rules of section
24 318(a), as modified by section
25 856(d)(5), shall apply in determining

1 the ownership of stock, assets, or net
2 profits of any person, and the fol-
3 lowing entities are not considered an
4 association taxable as a corporation:

5 “(aa) Any real estate invest-
6 ment trust other than a captive
7 real estate investment trust.

8 “(bb) Any qualified real es-
9 tate investment trust subsidiary
10 under section 856, other than a
11 qualified REIT subsidiary of a
12 captive real estate investment
13 trust.

14 “(cc) Any Listed Australian
15 Property Trust (meaning an Aus-
16 tralian unit trust registered as a
17 ‘Managed Investment Scheme’
18 under the Australian Corpora-
19 tions Act in which the principal
20 class of units is listed on a recog-
21 nized stock exchange in Australia
22 and is regularly traded on an es-
23 tablished securities market), or
24 an entity organized as a trust,
25 provided that a Listed Australian

1 Property Trust owns or controls,
2 directly or indirectly, 75 percent
3 or more of the voting power or
4 value of the beneficial interests
5 or shares of such trust.

6 “(dd) Any corporation,
7 trust, association, or partnership
8 organized outside the laws of the
9 United States and which satisfies
10 the criteria described in sub-
11 clause (IV).

12 “(IV) CRITERIA.—The criteria
13 described in this subclause are as fol-
14 lows:

15 “(aa) At least 75 percent of
16 the entity’s total asset value at
17 the close of its taxable year is
18 represented by real estate assets
19 (as defined in section
20 856(c)(5)(B)), cash and cash
21 equivalents, and United States
22 Government securities.

23 “(bb) The entity is not sub-
24 ject to tax on amounts distrib-
25 uted to its beneficial owners, or

1 is exempt from entity-level tax-
2 ation.

3 “(cc) The entity distributes
4 at least 85 percent of its taxable
5 income (as computed in the juris-
6 diction in which it is organized)
7 to the holders of its shares or
8 certificates of beneficial interest
9 on an annual basis.

10 “(dd) Not more than 10
11 percent of the voting power or
12 value in such entity is held di-
13 rectly or indirectly or construc-
14 tively by a single entity or indi-
15 vidual, or the shares or beneficial
16 interests of such entity are regu-
17 larly traded on an established se-
18 curities market.

19 “(ee) The entity is organized
20 in a country which has a tax
21 treaty with the United States.”.

22 (g) RULES FOR LIGHTING SYSTEMS.—Subsection (f)
23 of section 179D is amended to read as follows:

24 “(f) RULES FOR LIGHTING SYSTEMS.—

1 “(1) IN GENERAL.—With respect to property
2 that is part of a lighting system, the deduction al-
3 lowed under subsection (a) shall be equal to—

4 “(A) for a lighting system that includes in-
5 stallation of a lighting control described in
6 paragraph (2)(A), the applicable amount deter-
7 mined under paragraph (3)(A),

8 “(B) for a lighting system that includes in-
9 stallation of a lighting control described in
10 paragraph (2)(B), the applicable amount deter-
11 mined under paragraph (3)(B), or

12 “(C) for a lighting system that does not in-
13 clude installation of any lighting controls de-
14 scribed in subparagraph (A) or (B) of para-
15 graph (2), the applicable amount determined
16 under paragraph (3)(C).

17 “(2) ENERGY SAVING CONTROLS.—

18 “(A) LIGHTING CONTROLS IN CERTAIN
19 SPACES.—For purposes of paragraph (1)(A),
20 the lighting controls described in this subpara-
21 graph are the following:

22 “(i) Occupancy sensors (as described
23 in paragraph (4)(I)) in spaces not greater
24 than 800 square feet.

1 “(ii) Bi-level controls (as described in
2 paragraph (4)(A)).

3 “(iii) Continuous or step dimming
4 controls (as described in subparagraphs
5 (B) and (K) of paragraph (4)).

6 “(iv) Daylight dimming where suffi-
7 cient daylight is available (as described in
8 paragraph (4)(C)).

9 “(v) A multi-scene controller (as de-
10 scribed in paragraph (4)(H)).

11 “(vi) Time scheduling controls (as de-
12 scribed in paragraph (4)(L)), provided that
13 such controls are not required by Standard
14 90.1-2010.

15 “(vii) Such other lighting controls as
16 the Secretary, in consultation with the Sec-
17 retary of Energy, determines appropriate.

18 “(B) OTHER CONTROL TYPES.—For pur-
19 poses of paragraph (1)(B), the lighting controls
20 described in this subparagraph are the fol-
21 lowing:

22 “(i) Occupancy sensors (as described
23 in paragraph (4)(I)) in spaces greater than
24 800 square feet.

1 “(ii) Demand responsive controls (as
2 described in paragraph (4)(D)).

3 “(iii) Lumen maintenance controls (as
4 described in paragraph (4)(F)) where solid
5 state lighting is used.

6 “(iv) Such other lighting controls as
7 the Secretary, in consultation with the Sec-
8 retary of Energy, determines appropriate.

9 “(3) APPLICABLE AMOUNT.—

10 “(A) LIGHTING CONTROLS IN CERTAIN
11 SPACES.—For purposes of paragraph (1)(A),
12 the applicable amount shall be determined in
13 accordance with the following table:

“If the percentage of reduc- The amount of the deduction	tion in lighting power per square foot is:
density is not less than:	
15 percent	\$0.30
20 percent	\$0.44
25 percent	\$0.58
30 percent	\$0.72
35 percent	\$0.86
40 percent	\$1.00.

14 “(B) LIGHTING CONTROLS IN LARGER
15 SPACES AND WHERE SOLID LIGHTING IS
16 USED.—For purposes of paragraph (1)(B), the
17 applicable amount shall be determined in ac-
18 cordance with the following table:

“If the percentage of reduc- The amount of the deduction	tion in lighting power per square foot is:
density is not less than:	
20 percent	\$0.30
25 percent	\$0.44
30 percent	\$0.58

“If the percentage of reduction in lighting power density is not less than: The amount of the deduction per square foot is:

35 percent	\$0.72
40 percent	\$0.86
45 percent	\$1.00.

1 “(C) NO QUALIFIED LIGHTING CON-
 2 TROLS.—For purposes of paragraph (1)(C), the
 3 applicable amount shall be determined in ac-
 4 cordance with the following table:

“If the percentage of reduction in lighting power density is not less than: The amount of the deduction per square foot is:

25 percent	\$0.30
30 percent	\$0.44
35 percent	\$0.58
40 percent	\$0.72
45 percent	\$0.86
50 percent	\$1.00.

5 “(4) DEFINITIONS.—For purposes of this sub-
 6 section:

7 “(A) BI-LEVEL CONTROL.—

8 “(i) IN GENERAL.—Subject to clause
 9 (ii), the term ‘bi-level control’ means a
 10 lighting control strategy that provides for
 11 2 different levels of lighting.

12 “(ii) FULL-OFF SETTING.—For pur-
 13 poses of clause (i), a bi-level control shall
 14 also provide for a full-off setting.

15 “(B) CONTINUOUS DIMMING.—The term
 16 ‘continuous dimming’ means a lighting control
 17 strategy that adjusts the light output of a light-

1 ing system between minimum and maximum
2 light output in a manner that is not perceptible.

3 “(C) DAYLIGHT DIMMING; SUFFICIENT
4 DAYLIGHT.—

5 “(i) DAYLIGHT DIMMING.—The term
6 ‘daylight dimming’ means any device
7 that—

8 “(I) adjusts electric lighting
9 power in response to the amount of
10 daylight that is present in an area,
11 and

12 “(II) provides for separate con-
13 trol of the lamps for general lighting
14 in the daylight area by not less than
15 1 multi-level photocontrol, including
16 continuous dimming devices, that sat-
17 isfies the following requirements:

18 “(aa) The light sensor for
19 the multi-level photocontrol is re-
20 mote from where calibration ad-
21 justments are made.

22 “(bb) The calibration ad-
23 justments are readily accessible.

24 “(cc) The multi-level
25 photocontrol reduces electric

1 lighting power in response to the
2 amount of daylight with—

3 “(AA) not less than 1
4 control step that is between
5 50 percent and 70 percent
6 of design lighting power,
7 and

8 “(BB) not less than 1
9 control step that is not less
10 than 35 percent of design
11 lighting power.

12 “(ii) SUFFICIENT DAYLIGHT.—

13 “(I) IN GENERAL.—The term
14 ‘sufficient daylight’ means—

15 “(aa) in the case of
16 toplighted areas, when the total
17 daylight area under skylights
18 plus the total daylight area under
19 rooftop monitors in an enclosed
20 space is greater than 900 square
21 feet (as defined in Standard
22 90.1-2010), and

23 “(bb) in the case of
24 sidelighted areas, when the com-
25 bined primary sidelight area in

1 an enclosed space is not less than
2 250 square feet (as defined in
3 Standard 90.1-2010).

4 “(II) EXCEPTIONS.—Sufficient
5 daylight shall be deemed to not be
6 available if—

7 “(aa) in the case of areas
8 described in subclause (I)(aa)—

9 “(AA) for daylighted
10 areas under skylights, it is
11 documented that existing
12 adjacent structures or nat-
13 ural objects block direct
14 beam sunlight for more than
15 1500 daytime hours (after 8
16 a.m. and before 4 p.m., local
17 time) per year,

18 “(BB) for daylighted
19 areas, the skylight effective
20 aperture is less than 0.006,
21 or

22 “(CC) for buildings in
23 climate zone 8, as defined
24 under Standard 90.1-2010,
25 the daylight areas total less

1 than 1500 square feet in an
2 enclosed space, and

3 “(bb) in the case of primary
4 sidelighted areas described in
5 subclause (I)(bb)—

6 “(AA) the top of the
7 existing adjacent structures
8 are at least twice as high
9 above the windows as the
10 distance from the window,
11 or

12 “(BB) the sidelighting
13 effective aperture is less
14 than 0.1.

15 “(iii) DAYLIGHT, SIDELIGHTING, AND
16 OTHER RELATED TERMS.—The terms ‘day-
17 light area’, ‘daylight area under skylights’,
18 ‘daylight area under rooftop monitors’,
19 ‘daylighted area’, ‘enclosed space’, ‘primary
20 sidelighted areas’, ‘sidelighting effective
21 aperture’, and ‘skylight effective aperture’
22 have the same meaning given such terms
23 under Standard 90.1-2010.

24 “(D) DEMAND RESPONSIVE CONTROL.—

1 “(i) IN GENERAL.—The term ‘demand
2 responsive control’ means a control device
3 that receives and automatically responds to
4 a demand response signal and—

5 “(I) in the case of space-condi-
6 tioning systems, conducts a central-
7 ized demand shed for non-critical
8 zones during a demand response pe-
9 riod and that has the capability to, on
10 a signal from a centralized contract or
11 software point within an Energy Man-
12 agement Control System—

13 “(aa) remotely increase the
14 operating cooling temperature set
15 points in such zones by not less
16 than 4 degrees,

17 “(bb) remotely decrease the
18 operating heating temperature
19 set points in such zones by not
20 less than 4 degrees,

21 “(cc) remotely reset tem-
22 peratures in such zones to origi-
23 nating operating levels, and

1 “(dd) provide an adjustable
2 rate of change for any tempera-
3 ture adjustment and reset, and

4 “(II) in the case of lighting
5 power, has the capability to reduce
6 lighting power by not less than 30
7 percent during a demand response pe-
8 riod.

9 “(ii) DEMAND RESPONSE PERIOD.—

10 The term ‘demand response period’ means
11 a period in which short-term adjustments
12 in electricity usage are made by end-use
13 customers from normal electricity con-
14 sumption patterns, including adjustments
15 in response to—

16 “(I) the price of electricity, and

17 “(II) participation in programs
18 or services that are designed to mod-
19 ify electricity usage in response to
20 wholesale market prices for electricity
21 or when reliability of the electrical
22 system is in jeopardy.

23 “(iii) DEMAND RESPONSE SIGNAL.—

24 The term ‘demand response signal’ means
25 a signal sent to an end-use customer by a

1 local utility, independent system operator,
 2 or designated curtailment service provider
 3 or aggregator that—

4 “(I) indicates an adjustment in
 5 the price of electricity, or

6 “(II) is a request to modify elec-
 7 tricity consumption.

8 “(E) LAMP.—The term ‘lamp’ means an
 9 artificial light source that produces optical radi-
 10 ation (including ultraviolet and infrared radi-
 11 ation).

12 “(F) LUMEN MAINTENANCE CONTROL.—
 13 The term ‘lumen maintenance control’ means a
 14 lighting control strategy that maintains con-
 15 stant light output by adjusting lamp power to
 16 compensate for age and cleanliness of
 17 luminaires.

18 “(G) LUMINAIRE.—The term ‘luminaire’
 19 means a complete lighting unit for the produc-
 20 tion, control, and distribution of light that con-
 21 sists of—

22 “(i) not less than 1 lamp, and

23 “(ii) any of the following items:

24 “(I) Optical control devices de-
 25 signed to distribute light.

1 “(II) Sockets or mountings for
2 the positioning, protection, and oper-
3 ation of the lamps.

4 “(III) Mechanical components for
5 support or attachment.

6 “(IV) Electrical and electronic
7 components for operation and control
8 of the lamps.

9 “(H) MULTI-SCENE CONTROL.—The term
10 ‘multi-scene control’ means a lighting control
11 device or system that allows for—

12 “(i) not less than 2 predetermined
13 lighting settings,

14 “(ii) a setting that turns off all
15 luminaires in an area, and

16 “(iii) a recall of the settings described
17 in clauses (i) and (ii) for any luminaires or
18 groups of luminaires to adjust to multiple
19 activities within the area.

20 “(I) OCCUPANCY SENSOR.—The term ‘oc-
21 cupancy sensor’ means a control device that—

22 “(i) detects the presence or absence of
23 individuals within an area and regulates
24 lighting, equipment, or appliances accord-
25 ing to a required sequence of operation,

1 “(ii) shuts off lighting when an area
2 is unoccupied,

3 “(iii) except in areas designated as
4 emergency egress and using less than 0.2
5 watts per square foot of floor area, pro-
6 vides for manual shut-off of all luminaires
7 regardless of the status of the sensor and
8 allows for—

9 “(I) independent control in each
10 area enclosed by ceiling-height parti-
11 tions,

12 “(II) controls that are readily ac-
13 cessible, and

14 “(III) operation by a manual
15 switch that is located in the same area
16 as the lighting that is subject to the
17 control device.

18 “(J) STANDARD 90.1-2010.—The term
19 ‘Standard 90.1-2010’ means Standard 90.1-
20 2010 of the American Society of Heating, Re-
21 frigerating, and Air Conditioning Engineers and
22 the Illuminating Engineering Society of North
23 America.

24 “(K) STEP DIMMING.—The term ‘step
25 dimming’ means a lighting control strategy that

1 adjusts the light output of a lighting system by
2 1 or more predetermined amounts of greater
3 than 1 percent of full output in a manner that
4 may be perceptible.

5 “(L) TIME SCHEDULING CONTROL.—The
6 term ‘time scheduling control’ means a control
7 strategy that automatically controls lighting,
8 equipment, or systems based on a particular
9 time of day or other daily event (including sun-
10 rise and sunset).”

11 (h) UPDATED STANDARDS.—

12 (1) INITIAL UPDATE.—

13 (A) IN GENERAL.—Section 179D(c) is
14 amended by striking “90.1-2001” each place it
15 appears and inserting “90.1-2004”.

16 (B) CONFORMING AMENDMENT.—Para-
17 graph (2) of section 179D(c) is amended by
18 striking “(as in effect on April 2, 2003)”.

19 (2) SECOND UPDATE.—

20 (A) IN GENERAL.—Section 179D is
21 amended by striking “90.1-2004” each place it
22 appears in subsections (c) and (f) and inserting
23 “90.1-2007”.

1 (B) EFFECTIVE DATE.—The amendments
2 made by subparagraph (A) shall apply to prop-
3 erty placed in service after December 31, 2014.

4 (i) TREATMENT OF LIGHTING SYSTEMS.—Section
5 179D(c)(1) is amended by striking “interior” each place
6 it appears.

7 (j) REPORTING PROGRAM.—Section 179D, as amend-
8 ed by subsection (c)(1), is amended by redesignating sub-
9 section (i) as subsection (j) and by inserting after sub-
10 section (h) the following new subsection:

11 “(i) REPORTING PROGRAM.—For purposes of the re-
12 port required under section 179F(l), the Secretary, in con-
13 sultation with the Secretary of Energy, shall—

14 “(1) develop a program to collect a statistically
15 valid sample of energy consumption data from tax-
16 payers that received full deductions under this sec-
17 tion, regardless of whether such taxpayers allocated
18 all or a portion of such deduction, and

19 “(2) include such data in the report, with such
20 redactions as deemed necessary to protect the per-
21 sonally identifiable information of such taxpayers.”.

22 (k) SPECIAL RULE FOR PARTNERSHIPS AND S COR-
23 PORATIONS.—Section 179D, as amended by subsection
24 (j), is amended by redesignating subsection (j) as sub-

1 section (k) and by inserting after subsection (i) the fol-
 2 lowing new subsection:

3 “(j) **SPECIAL RULE FOR PARTNERSHIPS AND S COR-**
 4 **PORATIONS.**—In the case of a partnership or S corpora-
 5 tion, this section shall be applied at the partner or share-
 6 holder level, subject to such reporting requirements as are
 7 determined appropriate by the Secretary.”.

8 (l) **EFFECTIVE DATE.**—Except as otherwise pro-
 9 vided, the amendments made by this section shall apply
 10 to property placed in service in taxable years beginning
 11 after the date of the enactment of this Act.

12 **SEC. 102. DEDUCTION FOR RETROFITS OF EXISTING COM-**
 13 **MERCIAL AND MULTIFAMILY BUILDINGS.**

14 (a) **IN GENERAL.**—Part VI of subchapter B of chap-
 15 ter 1 of the Internal Revenue Code of 1986 is amended
 16 by inserting after section 179E the following new section:

17 **“SEC. 179F. DEDUCTION FOR RETROFITS OF EXISTING**
 18 **COMMERCIAL AND MULTIFAMILY BUILDINGS.**

19 “(a) **ALLOWANCE OF DEDUCTION.**—

20 “(1) **IN GENERAL.**—With respect to each cer-
 21 tified retrofit plan, there shall be allowed as a deduc-
 22 tion an amount equal to the lesser of—

23 “(A) the sum of—

24 “(i) the design deduction, and

25 “(ii) the realized deduction, or

1 “(B) the total cost to develop and imple-
2 ment such certified retrofit plan.

3 “(2) EXCEPTION.—For purposes of the amount
4 described in paragraph (1)(B), if such amount is
5 taken as a design deduction, no realized deduction
6 shall be allowed.

7 “(b) DEDUCTION AMOUNTS.—For purposes of this
8 section—

9 “(1) DESIGN DEDUCTION.—A design deduction
10 shall be—

11 “(A) based on projected source energy sav-
12 ings as calculated in accordance with subsection
13 (c)(3)(B),

14 “(B) correlated to the percent of source
15 energy savings set forth in the general scale in
16 paragraph (3)(A) that a certified retrofit plan
17 is projected to achieve when energy-efficient
18 measures are placed in service, and

19 “(C) equal to 60 percent of the amount al-
20 lowed under the general scale.

21 “(2) REALIZED DEDUCTION.—

22 “(A) IN GENERAL.—A realized deduction
23 shall be—

1 “(i) based on realized source energy
2 savings as calculated in accordance with
3 subsection (c)(3)(C),

4 “(ii) correlated to the percent of
5 source energy savings set forth in the gen-
6 eral scale in paragraph (3)(A) as realized
7 by a certified retrofit plan, and

8 “(iii) equal to 40 percent of the
9 amount allowed under the general scale.

10 “(B) ADJUSTMENT OF SOURCE ENERGY
11 SAVINGS.—The percent of source energy sav-
12 ings for purposes of any realized deduction may
13 vary from such savings projected when energy-
14 efficient measures were placed in service for
15 purposes of a design deduction under paragraph
16 (1).

17 “(C) NO RECAPTURE OF DESIGN DEDUC-
18 TION.—Notwithstanding the regulations pre-
19 scribed under subsection (f), no recapture of a
20 design deduction shall be required where the
21 owner of the commercial or multifamily build-
22 ing—

23 “(i) claims or allocates a design de-
24 duction when energy-efficient measures are
25 placed into service pursuant to the terms

1 and conditions of a certified retrofit plan,
2 and

3 “(ii) is not eligible for or does not
4 subsequently claim or allocate a realized
5 deduction.

6 “(3) GENERAL SCALE.—

7 “(A) IN GENERAL.—The scale for deduc-
8 tions allowed under this section shall be—

9 “(i) \$1.00 per square foot of retrofit
10 floor area for 20 to 24 percent source en-
11 ergy savings,

12 “(ii) \$1.50 per square foot of retrofit
13 floor area for 25 to 29 percent source en-
14 ergy savings,

15 “(iii) \$2.00 per square foot of retrofit
16 floor area for 30 to 34 percent source en-
17 ergy savings,

18 “(iv) \$2.50 per square foot of retrofit
19 floor area for 35 to 39 percent source en-
20 ergy savings,

21 “(v) \$3.00 per square foot of retrofit
22 floor area for 40 to 44 percent source en-
23 ergy savings,

1 “(vi) \$3.50 per square foot of retrofit
2 floor area for 45 to 49 percent source en-
3 ergy savings, and

4 “(vii) \$4.00 per square foot of retrofit
5 floor area for 50 percent or more source
6 energy savings.

7 “(B) HISTORIC BUILDINGS.—

8 “(i) IN GENERAL.—With respect to
9 energy-efficient measures placed in service
10 as part of a certified retrofit plan in a
11 commercial building or multifamily build-
12 ing on or eligible for the National Register
13 of Historic Places, the respective dollar
14 amounts set forth in the general scale
15 under subparagraph (A) shall—

16 “(I) each be increased by 20 per-
17 cent, for the purposes of calculating
18 any applicable design deduction and
19 realized deduction, and

20 “(II) not exceed the total cost to
21 develop and implement such certified
22 retrofit plan.

23 “(ii) EXCEPTION.—If the amount de-
24 scribed in clause (i)(II) is taken as a de-

1 sign deduction, then no realized deduction
2 shall be allowed.

3 “(c) CALCULATION OF ENERGY SAVINGS.—

4 “(1) IN GENERAL.—For purposes of the design
5 deduction and the realized deduction, source energy
6 savings shall be calculated with reference to a base-
7 line of the annual source energy consumption of the
8 commercial or multifamily building before energy-ef-
9 ficient measures were placed in service.

10 “(2) BASELINE BENCHMARK.—The baseline
11 under paragraph (1) shall be determined using a
12 building energy performance benchmarking tool des-
13 ignated by the Administrator of the Environmental
14 Protection Agency, and based upon 1 year of source
15 energy consumption data prior to the date upon
16 which the energy-efficient measures are placed in
17 service.

18 “(3) DESIGN AND REALIZED SOURCE ENERGY
19 SAVINGS.—

20 “(A) IN GENERAL.—In certifying a retrofit
21 plan as a certified retrofit plan, a licensed engi-
22 neer or architect shall calculate source energy
23 savings by utilizing the baseline benchmark de-
24 fined in paragraph (2) and determining percent
25 improvements from such baseline.

1 “(B) DESIGN DEDUCTION.—For purposes
2 of claiming a design deduction, the regulations
3 issued under subsection (f)(1) shall prescribe
4 the standards and process for a licensed engi-
5 neer or architect to calculate and certify source
6 energy savings projected from the design of a
7 certified retrofit plan as of the date energy-effi-
8 cient measures are placed in service.

9 “(C) REALIZED DEDUCTION.—For pur-
10 poses of claiming a realized deduction, a li-
11 censed engineer or architect shall calculate and
12 certify source energy savings realized by a cer-
13 tified retrofit plan 2 years after a design deduc-
14 tion is allowed by utilizing energy consumption
15 data after energy-efficient measures are placed
16 in service, and adjusting for climate, building
17 occupancy hours, density, or other factors
18 deemed appropriate in the benchmarking tool
19 designated under paragraph (2).

20 “(d) CERTIFIED RETROFIT PLAN AND OTHER DEFINI-
21 TIONS.—For purposes of this section—

22 “(1) CERTIFIED RETROFIT PLAN.—The term
23 ‘certified retrofit plan’ means a plan that—

24 “(A) is designed to reduce the annual
25 source energy costs of a commercial building, or

1 a multifamily building, through the installation
2 of energy-efficient measures,

3 “(B) is certified under penalty of perjury
4 by a licensed engineer or architect, who is not
5 a direct employee of the owner of the commer-
6 cial building or multifamily building that is the
7 subject of the plan, and is licensed in the State
8 in which such building is located,

9 “(C) describes the square footage of ret-
10 rofit floor area covered by such a plan,

11 “(D) specifies that it is designed to achieve
12 a final source energy usage intensity after en-
13 ergy-efficient measures are placed in service in
14 a commercial building or a multifamily building
15 that does not exceed on a square foot basis the
16 average level of energy usage intensity of other
17 similar buildings, as described in paragraph (2),

18 “(E) requires that after the energy-effi-
19 cient measures are placed in service, the com-
20 mercial building or multifamily building meets
21 the applicable State and local building code re-
22 quirements for the area in which such building
23 is located,

24 “(F) satisfies the regulations prescribed
25 under subsection (f), and

1 “(G) is submitted to the Secretary of En-
2 ergy after energy-efficient measures are placed
3 in service, for the purpose of informing the re-
4 port to Congress required by subsection (I).

5 “(2) AVERAGE LEVEL OF ENERGY USAGE IN-
6 TENSITY.—

7 “(A) IN GENERAL.—The maximum aver-
8 age level of energy usage intensity under para-
9 graph (1)(D) shall not exceed 300,000 British
10 thermal units per square foot.

11 “(B) REGULATIONS.—

12 “(i) IN GENERAL.—The Secretary, in
13 consultation with the Administrator of the
14 Environmental Protection Agency, shall
15 develop distinct standards for categories
16 and subcategories of buildings with respect
17 to maximum average level of energy usage
18 intensity based on the best available infor-
19 mation used by the ENERGY STAR pro-
20 gram.

21 “(ii) REVIEW.—The standards devel-
22 oped pursuant to clause (i) shall be re-
23 viewed and updated by the Secretary, in
24 consultation with the Administrator of the

1 Environmental Protection Agency, not
2 later than every 3 years.

3 “(3) COMMERCIAL BUILDING.—

4 “(A) IN GENERAL.—The term ‘commercial
5 building’ means a building located in the United
6 States—

7 “(i) that is in existence and occupied
8 on the date of the enactment of this sec-
9 tion,

10 “(ii) for which a certificate of occu-
11 pancy has been issued at least 10 years be-
12 fore energy efficiency measures are placed
13 in service, and

14 “(iii) with a primary use or purpose
15 other than as residential housing.

16 “(B) SHOPPING CENTERS.—In the case of
17 a retail shopping center, the term ‘commercial
18 building’ shall include an area within such
19 building that is—

20 “(i) 50,000 square feet or larger that
21 is covered by a separate utility grade meter
22 to record energy consumption in such area,
23 and

24 “(ii) under the day-to-day manage-
25 ment and operation of—

1 “(I) the owner of such building
2 as common space areas, or

3 “(II) a retail tenant, lessee, or
4 other occupant.

5 “(4) ENERGY-EFFICIENT MEASURES.—The
6 term ‘energy-efficient measures’ means a measure,
7 or combination of measures, placed in service
8 through a certified retrofit plan—

9 “(A) on or in a commercial building or
10 multifamily building,

11 “(B) as part of—

12 “(i) the lighting systems,

13 “(ii) the heating, cooling, ventilation,
14 refrigeration, or hot water systems,

15 “(iii) building transportation systems,
16 such as elevators and escalators,

17 “(iv) the building envelope, which may
18 include an energy-efficient cool roof,

19 “(v) a continuous commissioning con-
20 tract under the supervision of a licensed
21 engineer or architect, or

22 “(vi) building operations or moni-
23 toring systems, including utility-grade me-
24 ters and submeters, and

1 “(C) including equipment, materials, and
2 systems within subparagraph (B) with respect
3 to which depreciation (or amortization in lieu of
4 depreciation) is allowed.

5 “(5) ENERGY SAVINGS.—The term ‘energy sav-
6 ings’ means source energy usage intensity reduced
7 on a per square foot basis through design and imple-
8 mentation of a certified retrofit plan.

9 “(6) MULTIFAMILY BUILDING.—The term ‘mul-
10 tifamily building’—

11 “(A) means—

12 “(i) a structure of 5 or more dwelling
13 units located in the United States—

14 “(I) that is in existence and oc-
15 cupied on the date of the enactment
16 of this section,

17 “(II) for which a certificate of
18 occupancy has been issued at least 10
19 years before energy efficiency meas-
20 ures are placed in service, and

21 “(III) with a primary use as resi-
22 dential housing, and

23 “(B) includes such buildings owned and
24 operated as a condominium, cooperative, or
25 other common interest community.

1 “(7) SOURCE ENERGY.—The term ‘source en-
 2 ergy’ means the total amount of raw fuel that is re-
 3 quired to operate a commercial building or multi-
 4 family building, and accounts for losses that are in-
 5 curred in the generation, storage, transport, and de-
 6 livery of fuel to such a building.

7 “(e) TIMING OF CLAIMING DEDUCTIONS.—Deduc-
 8 tions allowed under this section may be claimed as follows:

9 “(1) DESIGN DEDUCTION.—In the case of a de-
 10 sign deduction, in the taxable year that energy effi-
 11 ciency measures are placed in service.

12 “(2) REALIZED DEDUCTION.—In the case of a
 13 realized deduction, in the second taxable year fol-
 14 lowing the taxable year described in paragraph (1).

15 “(f) REGULATIONS.—

16 “(1) IN GENERAL.—Not later than 180 days
 17 after the date of the enactment of this section, and
 18 after notice and opportunity for public comment, the
 19 Secretary, in consultation with the Secretary of En-
 20 ergy and the Administrator of the Environmental
 21 Protection Agency, shall prescribe regulations—

22 “(A) for the manner and method for a li-
 23 censed engineer or architect to certify retrofit
 24 plans, model projected energy savings, and cal-
 25 culate realized energy savings, and

1 “(B) notwithstanding subsection (b)(2)(C),
2 to provide, as appropriate, for a recapture of
3 the deductions allowed under this section if a
4 retrofit plan is not fully implemented, or a ret-
5 rofit plan and energy savings are not certified
6 or verified in accordance with regulations pre-
7 scribed under this subsection.

8 “(2) RELIANCE ON ESTABLISHED PROTOCOLS,
9 ETC.—To the maximum extent practicable and avail-
10 able, such regulations shall rely upon established
11 protocols and documents used in the ENERGY
12 STAR program, and industry best practices and ex-
13 isting guidelines, such as the Building Energy Mod-
14 eling Guidelines of the Commercial Energy Services
15 Network (COMNET).

16 “(3) ALLOWANCE OF DEDUCTIONS PENDING
17 ISSUANCE OF REGULATIONS.—Pending issuance of
18 the regulations under paragraph (1), the owner of a
19 commercial building or a multifamily building shall
20 be allowed to claim or allocate a deduction allowed
21 under this section.

22 “(g) NOTICE TO OWNER.—Each certification of a
23 retrofit plan and calculation of energy savings required
24 under this section shall include an explanation to the
25 owner of a commercial building or a multifamily building

1 regarding the energy-efficient measures placed in service
2 and their projected and realized annual energy costs.

3 “(h) ALLOCATION OF DEDUCTION.—

4 “(1) IN GENERAL.—Not later than 180 days
5 after the date of the enactment of this section, the
6 Secretary, in consultation with the Secretary of En-
7 ergy, shall promulgate a regulation to allow the
8 owner of a commercial building or a multifamily
9 building, including a government, tribal, or non-prof-
10 it owner, to allocate any deduction allowed under
11 this section, or a portion thereof, to the person pri-
12 marily responsible for funding, financing, designing,
13 leasing, operating, or placing in service energy-effi-
14 cient measures. Such person shall be treated as the
15 taxpayer for purposes of this section and shall in-
16 clude a building tenant, financier, architect, profes-
17 sional engineer, licensed contractor, energy services
18 company, or other building professional.

19 “(2) FORM OF ALLOCATION.—An allocation
20 made under this paragraph shall be in writing and
21 in a form that meets the form of allocation require-
22 ments in Notice 2008–40 of the Internal Revenue
23 Service.

24 “(3) PROVISION OF ALLOCATION.—Not later
25 than 30 days after receipt of a written request from

1 a person eligible to receive an allocation under this
2 paragraph, the owner of a building that makes an
3 allocation under this paragraph shall provide the
4 form of allocation (as described in paragraph (2)) to
5 such person.

6 “(4) ALLOCATION FROM PUBLIC OWNER OF
7 BUILDING.—In the case of a commercial building or
8 a multifamily building that is owned by a Federal,
9 State, or local government or a subdivision thereof,
10 Notice 2006–52 of the Internal Revenue Service, as
11 amplified by Notice 2008–40, shall apply to any allo-
12 cation.

13 “(i) BASIS REDUCTION.—For purposes of this sub-
14 title, if a deduction is allowed under this section with re-
15 spect to any energy-efficient measures placed in service
16 under a certified retrofit plan other than in a qualified
17 low-income building (within the meaning of section 42),
18 the basis of such measures shall be reduced by the amount
19 of the deduction so allowed or so allocated.

20 “(j) SPECIAL RULE FOR PARTNERSHIPS AND S COR-
21 PORATIONS.—In the case of a partnership or S corpora-
22 tion, this section shall be applied at the partner or share-
23 holder level, subject to such reporting requirements as are
24 determined appropriate by the Secretary.

25 “(k) TAX INCENTIVES NOT AVAILABLE.—

1 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-
2 INGS DEDUCTION.—Energy-efficient measures for
3 which a deduction is allowed under this section shall
4 not be eligible for a deduction under section 179D.

5 “(2) NEW ENERGY EFFICIENT HOME CREDIT.—
6 No deduction shall be allowed under this section
7 with respect to any building or dwelling unit with re-
8 spect to which a credit under section 45L was al-
9 lowed.

10 “(1) REPORT TO CONGRESS.—

11 “(1) IN GENERAL.—Biennially, beginning with
12 the first year after the enactment of this section, the
13 Secretary, in conjunction with the Secretary of En-
14 ergy, shall submit a report to Congress that—

15 “(A) explains the energy saved, the energy-
16 efficient measures implemented, the realization
17 of energy savings projected, and records the
18 amounts and types of deductions allowed under
19 this section,

20 “(B) explains the energy saved, the energy
21 efficient measures implemented, and records the
22 amount of deductions allowed under section
23 179D, based on the data collected pursuant to
24 subsection (i) of such section,

1 “(C) determines the number of jobs cre-
2 ated as a result of the deduction allowed under
3 this section,

4 “(D) determines how the use of any deduc-
5 tion allowed under this section may be im-
6 proved, based on the information provided to
7 the Secretary of Energy,

8 “(E) provides aggregated data with respect
9 to the information described in subparagraphs
10 (A) through (D), and

11 “(F) provides statutory recommendations
12 to Congress that would reduce energy consump-
13 tion in new and existing commercial buildings
14 located in the United States, including rec-
15 ommendations on providing energy-efficient tax
16 incentives for subsections of buildings that op-
17 erate with specific utility-grade metering.

18 “(2) PROTECTION OF TAXPAYER INFORMA-
19 TION.—The Secretary and the Secretary of Energy
20 shall share information on deductions allowed under
21 this section and related reports submitted, as re-
22 quested by each agency to fulfill its obligations
23 under this section, with such redactions as deemed
24 necessary to protect the personally identifiable finan-
25 cial information of a taxpayer.

1 “(3) INCORPORATION INTO DEPARTMENT OF
2 ENERGY PROGRAMS.—The Secretary of Energy
3 shall, to the maximum extent practicable, incor-
4 porate conclusions of the report under this sub-
5 section into current Department of Energy building
6 performance and energy efficiency data collection
7 and other reporting programs.

8 “(m) TERMINATION.—This section shall not apply to
9 any property placed in service after December 31, 2016.”.

10 (b) EFFECT ON DEPRECIATION ON EARNINGS AND
11 PROFITS.—Subparagraph (B) of section 312(k)(3), as
12 amended by this title, is amended—

13 (1) by striking “or 179E” both places it ap-
14 pears in clause (i) and inserting “179E, or 179F”,

15 (2) by striking “OR 179E” in the heading and
16 inserting “179E, OR 179F”, and

17 (3) by inserting “or 179F” after “section
18 179D” in clause (ii)(I).

19 (c) CONFORMING AMENDMENT.—The table of sec-
20 tions for part VI of subchapter B of chapter 1 is amended
21 by inserting after the item relating to section 179E the
22 following new item:

“Sec. 179F. Deduction for retrofits of existing commercial and multifamily
buildings.”.

23 (d) EFFECTIVE DATE.—Except as otherwise pro-
24 vided, the amendments made by this section shall apply

1 to property placed in service in taxable years beginning
 2 after the date of the enactment of this Act.

3 **TITLE II—HOME ENERGY**
 4 **IMPROVEMENTS**

5 **SEC. 201. PERFORMANCE BASED HOME ENERGY IMPROVE-**
 6 **MENTS.**

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

10 **“SEC. 25E. PERFORMANCE BASED ENERGY IMPROVE-**
 11 **MENTS.**

12 “(a) IN GENERAL.—In the case of an individual,
 13 there shall be allowed as a credit against the tax imposed
 14 by this chapter for the taxable year for a qualified whole
 15 home energy efficiency retrofit an amount determined
 16 under subsection (b).

17 “(b) AMOUNT DETERMINED.—

18 “(1) IN GENERAL.—Subject to paragraph (4),
 19 the amount determined under this subsection is
 20 equal to—

21 “(A) the base amount under paragraph
 22 (2), increased by

23 “(B) the amount determined under para-
 24 graph (3).

1 “(2) BASE AMOUNT.—For purposes of para-
2 graph (1)(A), the base amount is \$2,000, but only
3 if the energy use for the residence is reduced by at
4 least 20 percent below the baseline energy use for
5 such residence as calculated according to paragraph
6 (5).

7 “(3) INCREASE AMOUNT.—For purposes of
8 paragraph (1)(B), the amount determined under this
9 paragraph is \$500 for each additional 5 percentage
10 point reduction in energy use.

11 “(4) LIMITATION.—In no event shall the
12 amount determined under this subsection exceed the
13 lesser of—

14 “(A) \$5,000 with respect to any residence,

15 or

16 “(B) 30 percent of the qualified home en-
17 ergy efficiency expenditures paid or incurred by
18 the taxpayer under subsection (c) with respect
19 to such residence.

20 “(5) DETERMINATION OF ENERGY USE REDUC-
21 TION.—For purposes of this subsection—

22 “(A) IN GENERAL.—The reduction in en-
23 ergy use for any residence shall be determined
24 by modeling the annual predicted percentage re-
25 duction in total energy costs for heating, cool-

1 ing, hot water, and permanent lighting. It shall
2 be modeled using computer modeling software
3 approved under subsection (d)(2) and a baseline
4 energy use calculated according to subsection
5 (d)(1)(C).

6 “(B) ENERGY COSTS.—For purposes of
7 subparagraph (A), the energy cost per unit of
8 fuel for each fuel type shall be determined by
9 dividing the total actual energy bill for the resi-
10 dence for that fuel type for the most recent
11 available 12-month period by the total energy
12 units of that fuel type used over the same pe-
13 riod.

14 “(c) QUALIFIED HOME ENERGY EFFICIENCY EX-
15 PENDITURES.—For purposes of this section, the term
16 ‘qualified home energy efficiency expenditures’—

17 “(1) means any amount paid or incurred by the
18 taxpayer during the taxable year for a qualified
19 whole home energy efficiency retrofit, including the
20 cost of diagnostic procedures, labor, and modeling,

21 “(2) includes only measures that have an aver-
22 age estimated life of 5 years or more as determined
23 by the Secretary, after consultation with the Sec-
24 retary of Energy, and

1 “(3) does not include any amount which is paid
2 or incurred in connection with any expansion of the
3 building envelope of the residence.

4 “(d) QUALIFIED WHOLE HOME ENERGY EFFI-
5 CIENCY RETROFIT.—For purposes of this section—

6 “(1) IN GENERAL.—The term ‘qualified whole
7 home energy efficiency retrofit’ means the implemen-
8 tation of measures placed in service during the tax-
9 able year intended to reduce the energy use of the
10 principal residence of the taxpayer which is located
11 in the United States. A qualified whole home energy
12 efficiency retrofit shall—

13 “(A) subject to paragraph (4), be designed,
14 implemented, and installed by a contractor
15 which is—

16 “(i) accredited by the Building Per-
17 formance Institute (hereafter in this sec-
18 tion referred to as ‘BPI’) or a preexisting
19 BPI accreditation-based State certification
20 program with enhancements to achieve
21 State energy policy,

22 “(ii) a Residential Energy Services
23 Network (hereafter in this section referred
24 to as ‘RESNET’) accredited Energy Smart
25 Home Performance Team, or

1 “(iii) accredited by an equivalent cer-
2 tification program approved by the Sec-
3 retary, after consultation with the Sec-
4 retary of Energy, for this purpose,

5 “(B) install a set of measures modeled to
6 achieve a reduction in energy use of at least 20
7 percent below the baseline energy use estab-
8 lished in subparagraph (C), using computer
9 modeling software approved under paragraph
10 (2),

11 “(C) establish the baseline energy use by
12 calibrating the model using sections 3 and 4
13 and Annex D of BPI Standard BPI-2400-S-
14 2011: Standardized Qualification of Whole
15 House Energy Savings Estimates, or an equiva-
16 lent standard approved by the Secretary, after
17 consultation with Secretary of Energy, for this
18 purpose,

19 “(D) document the measures implemented
20 in the residence through photographs taken be-
21 fore and after the retrofit, including photo-
22 graphs of its visible energy systems and enve-
23 lope as relevant, and

24 “(E) implement a test-out procedure, fol-
25 lowing guidelines of the applicable certification

1 program specified under clause (i) or (ii) of
2 subparagraph (A), or equivalent guidelines ap-
3 proved by the Secretary, after consultation with
4 the Secretary of Energy, for this purpose, to
5 ensure—

6 “(i) the safe operation of all systems
7 post retrofit, and

8 “(ii) that all improvements are in-
9 cluded in, and have been installed accord-
10 ing to, standards of the applicable certifi-
11 cation program specified under clause (i)
12 or (ii) of subparagraph (A), or equivalent
13 standards approved by the Secretary, after
14 consultation with the Secretary of Energy,
15 for this purpose.

16 For purposes of subparagraph (A)(iii), an orga-
17 nization or State may submit an equivalent cer-
18 tification program for approval by the Sec-
19 retary, in consultation with the Secretary of
20 Energy. The Secretary shall approve or deny
21 such submission not later than 180 days after
22 receipt, and, if the Secretary fails to respond in
23 that time period, the submitted equivalent cer-
24 tification program shall be considered approved.

1 “(2) APPROVED MODELING SOFTWARE.—For
2 purposes of paragraph (1)(B), the contractor (or, if
3 applicable, the person described in paragraph (4))
4 shall use modeling software certified by RESNET as
5 following the software verification test suites in sec-
6 tion 4.2.1 of RESNET Publication No. 06–001 or
7 certified by an alternative organization as following
8 an equivalent standard, as approved by the Sec-
9 retary, after consultation with the Secretary of En-
10 ergy, for this purpose.

11 “(3) DOCUMENTATION.—The Secretary, after
12 consultation with the Secretary of Energy, shall pre-
13 scribe regulations directing what specific documenta-
14 tion is required to be retained or submitted by the
15 taxpayer in order to claim the credit under this sec-
16 tion, which shall include, in addition to the photo-
17 graphs under paragraph (1)(D), a form approved by
18 the Secretary that is completed and signed by the
19 qualified whole home energy efficiency retrofit con-
20 tractor under penalties of perjury. Such form shall
21 include—

22 “(A) a statement that the contractor (or,
23 if applicable, the person described in paragraph
24 (4)) followed the specified procedures for estab-

1 lishing baseline energy use and estimating re-
2 duction in energy use,

3 “(B) the name of the software used for
4 calculating the baseline energy use and reduc-
5 tion in energy use, the percentage reduction in
6 projected energy savings achieved, and a state-
7 ment that such software was certified for this
8 program by the Secretary, after consultation
9 with the Secretary of Energy,

10 “(C) a statement that the contractor (or,
11 if applicable, the person described in paragraph
12 (4)) will retain the details of the calculations
13 and underlying energy bills for 5 years and will
14 make such details available for inspection by
15 the Secretary or the Secretary of Energy, if so
16 requested,

17 “(D) a list of measures installed and a
18 statement that all measures included in the re-
19 duction in energy use estimate are included in,
20 and installed according to, standards of the ap-
21 plicable certification program specified under
22 clause (i) or (ii) of subparagraph (A), or equiv-
23 alent standards approved by the Secretary,
24 after consultation with the Secretary of Energy,

1 “(E) a statement that the contractor (or,
2 if applicable, the person described in paragraph
3 (4)) meets the requirements of paragraph
4 (1)(A), and

5 “(F) documentation of the total cost of the
6 project in order to comply with the limitation
7 under subsection (b)(4)(B).

8 “(4) CERTIFIED HOME ENERGY RATER.—For
9 purposes of paragraph (1)(A), a contractor shall be
10 deemed to have satisfied the accreditation require-
11 ment under such paragraph if the contractor enters
12 into a contract with a person that satisfies such ac-
13 creditation requirement for purposes of modeling the
14 energy use reduction described in paragraph (1)(B).

15 “(e) ADDITIONAL RULES.—For purposes of this sec-
16 tion—

17 “(1) NO DOUBLE BENEFIT.—

18 “(A) IN GENERAL.—With respect to any
19 residence, no credit shall be allowed under this
20 section for any taxable year in which the tax-
21 payer claims a credit under section 25C.

22 “(B) RENEWABLE ENERGY SYSTEMS AND
23 APPLIANCES.—In the case of a renewable en-
24 ergy system or appliance that qualifies for an-
25 other credit under this chapter, the resulting re-

1 duction in energy use shall not be taken into
2 account in determining the percentage energy
3 use reductions under subsection (b).

4 “(C) NO DOUBLE BENEFIT FOR CERTAIN
5 EXPENDITURES.—The term ‘qualified home en-
6 ergy efficiency expenditures’ shall not include
7 any expenditure for which a deduction or credit
8 is claimed by the taxpayer under this chapter
9 for the taxable year or with respect to which
10 the taxpayer receives any Federal energy effi-
11 ciency rebate.

12 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
13 cipal residence’ has the same meaning as when used
14 in section 121.

15 “(3) SPECIAL RULES.—Rules similar to the
16 rules under paragraphs (4), (5), (6), (7), and (8) of
17 section 25D(e) and section 25C(e)(2) shall apply, as
18 determined by the Secretary, after consultation with
19 the Secretary of Energy.

20 “(4) BASIS ADJUSTMENTS.—For purposes of
21 this subtitle, if a credit is allowed under this section
22 with respect to any expenditure with respect to any
23 property, the increase in the basis of such property
24 which would (but for this paragraph) result from

1 such expenditure shall be reduced by the amount of
2 the credit so allowed.

3 “(5) ELECTION NOT TO CLAIM CREDIT.—No
4 credit shall be determined under subsection (a) for
5 the taxable year if the taxpayer elects not to have
6 subsection (a) apply to such taxable year.

7 “(6) MULTIPLE YEAR RETROFITS.—If the tax-
8 payer has claimed a credit under this section in a
9 previous taxable year, the baseline energy use for the
10 calculation of reduced energy use must be estab-
11 lished after the previous retrofit has been placed in
12 service.

13 “(f) TERMINATION.—This section shall not apply
14 with respect to any costs paid or incurred after December
15 31, 2016.

16 “(g) SECRETARY REVIEW.—The Secretary, after con-
17 sultation with the Secretary of Energy, shall establish a
18 review process for the retrofits performed, including an es-
19 timate of the usage of the credit and a statistically valid
20 analysis of the average actual energy use reductions, uti-
21 lizing utility bill data collected on a voluntary basis, and
22 report to Congress not later than June 30, 2014, any find-
23 ings and recommendations for—

24 “(1) improvements to the effectiveness of the
25 credit under this section, and

1 “(2) expansion of the credit under this section
2 to rental units.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1016(a) is amended—

5 (A) by striking “and” at the end of para-
6 graph (36),

7 (B) by striking the period at the end of
8 paragraph (37) and inserting “, and”, and

9 (C) by adding at the end the following new
10 paragraph:

11 “(38) to the extent provided in section
12 25E(e)(4), in the case of amounts with respect to
13 which a credit has been allowed under section
14 25E.”.

15 (2) Section 6501(m) is amended by inserting
16 “25E(e)(5),” after “section”.

17 (3) The table of sections for subpart A of part
18 IV of subchapter A chapter 1 is amended by insert-
19 ing after the item relating to section 25D the fol-
20 lowing new item:

“Sec. 25E. Performance based energy improvements.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to amounts paid or incurred for
23 a qualified whole home energy efficiency retrofit placed in
24 service after December 31, 2013.

1 **TITLE III—INDUSTRIAL ENERGY**
2 **AND WATER EFFICIENCY**

3 **SEC. 301. MODIFICATIONS IN CREDIT FOR COMBINED HEAT**
4 **AND POWER SYSTEM PROPERTY.**

5 (a) MODIFICATION OF CERTAIN CAPACITY LIMITA-
6 TIONS.—Section 48(c)(3)(B) is amended—

7 (1) by striking “15 megawatts” in clause (ii)
8 and inserting “25 megawatts”,

9 (2) by striking “20,000 horsepower” in clause
10 (ii) and inserting “34,000 horsepower”, and

11 (3) by striking clause (iii).

12 (b) INCREASE IN CREDIT PERCENTAGE FOR SYS-
13 TEMS WITH GREATER EFFICIENCY.—Subparagraph (A)
14 of section 48(a)(2) is amended—

15 (1) by striking “and” at the end of subclause
16 (III) of clause (i),

17 (2) by adding at the end of clause (i) the fol-
18 lowing new subclause:

19 “(V) combined heat and power
20 system property the energy efficiency
21 percentage of which (as defined in
22 subsection (c)(3)(C)(i)) is equal to or
23 greater than 85 percent,”

24 (3) by redesignating clause (ii) as clause (iii),

1 “(viii) open-loop biomass (within the
2 meaning of section 45(c)(3)) heating prop-
3 erty, including boilers or furnaces which
4 operate at output efficiencies of not less
5 than 65 percent (measured by the higher
6 heating value of the fuel) and which pro-
7 vide thermal energy in the form of heat,
8 hot water, or steam for space heating, air
9 conditioning, domestic hot water, or indus-
10 trial process heat, but only with respect to
11 periods ending before January 1, 2016.”.

12 (b) 30-PERCENT AND 15-PERCENT CREDITS.—

13 (1) IN GENERAL.—Subparagraph (A) of section
14 48(a)(2), as amended by this title, is amended—

15 (A) by redesignating clause (iii) as clause
16 (iv),

17 (B) by striking “and” at the end of clause
18 (ii),

19 (C) by striking “clause (i) or (ii)” in clause
20 (iv), as so redesignated, and inserting “clause
21 (i), (ii), or (iii)”, and

22 (D) by inserting after clause (ii) the fol-
23 lowing new clause:

24 “(iii) 15 percent in the case of energy
25 property described in paragraph

1 (3)(A)(viii) to which clause (i)(VI) does not
2 apply, and”.

3 (2) INCREASED CREDIT FOR GREATER EFFI-
4 CIENCY.—Clause (i) of section 48(a)(2)(A), as
5 amended by this title, is amended by striking “and”
6 at the end of subclause (IV), by striking the comma
7 at the end of subclause (V) and inserting “, and”,
8 and by inserting after subclause (V) the following
9 new subclause:

10 “(VI) energy property described
11 in paragraph (3)(A)(viii) which oper-
12 ates at an output efficiency of not less
13 than 80 percent (measured by the
14 higher heating value of the fuel),”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to periods after the date of the
17 enactment of this Act, in taxable years ending after such
18 date, under rules similar to the rules of section 48(m) of
19 the Internal Revenue Code of 1986 (as in effect on the
20 day before the date of the enactment of the Revenue Rec-
21 onciliation Act of 1990).

22 **SEC. 303. INVESTMENT TAX CREDIT FOR WASTE HEAT TO**
23 **POWER PROPERTY.**

24 (a) IN GENERAL.—Subparagraph (A) of section
25 48(a)(3), as amended by this title, is amended by striking

1 “or” at the end of clause (vii), by striking the comma at
 2 the end of clause (viii) and inserting “, or”, and by insert-
 3 ing after clause (viii) the following new clause:

4 “(ix) waste heat to power property,”.

5 (b) 30-PERCENT CREDIT.—Clause (i) of section
 6 48(a)(2)(A), as amended by this title, is amended by strik-
 7 ing “and” at the end of subclause (V), by striking the
 8 comma at the end of subclause (VI) and inserting “, and”,
 9 and by inserting after subclause (VI) the following new
 10 subclause:

11 “(VII) waste heat to power prop-
 12 erty,”.

13 (c) WASTE HEAT TO POWER PROPERTY.—Sub-
 14 section (c) of section 48 is amended by adding at the end
 15 the following new paragraph:

16 “(5) WASTE HEAT TO POWER PROPERTY.—

17 “(A) IN GENERAL.—The term ‘waste heat
 18 to power property’ means property—

19 “(i) comprising a system which gen-
 20 erates electricity through the recovery of a
 21 qualified waste heat resource, and

22 “(ii) which is placed in service before
 23 January 1, 2019.

1 “(B) QUALIFIED WASTE HEAT RE-
2 SOURCE.—The term ‘qualified waste heat re-
3 source’ means—

4 “(i) exhaust heat or flared gas from
5 an industrial process,

6 “(ii) waste gas or industrial tail gas
7 that would otherwise be flared, incinerated,
8 or vented,

9 “(iii) a pressure drop in any gas for
10 an industrial or commercial process, or

11 “(iv) such other forms of waste heat
12 resources as the Secretary may determine.

13 “(C) EXCEPTION.—The term ‘qualified
14 waste heat resource’ does not include any heat
15 resource from a process whose primary purpose
16 is the generation of electricity utilizing a fossil
17 fuel or the production of oil, natural gas, or
18 other fossil fuels.”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to periods after the date of the
21 enactment of this Act, in taxable years ending after such
22 date, under rules similar to the rules of section 48(m) of
23 the Internal Revenue Code of 1986 (as in effect on the
24 day before the date of the enactment of the Revenue Rec-
25 onciliation Act of 1990).

1 **SEC. 304. MOTOR ENERGY EFFICIENCY IMPROVEMENT TAX**

2 **CREDIT.**

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

6 **“SEC. 45S. MOTOR ENERGY EFFICIENCY IMPROVEMENT**

7 **TAX CREDIT.**

8 “(a) IN GENERAL.—For purposes of section 38, the
9 motor energy efficiency improvement tax credit deter-
10 mined under this section for the taxable year is an amount
11 equal to \$120 multiplied by the motor horsepower of an
12 appliance, machine, or equipment—

13 “(1) manufactured in such taxable year by a
14 manufacturer which incorporates an advanced motor
15 and drive system into a newly designed appliance,
16 machine, or equipment or into a redesigned appli-
17 ance, machine, or equipment which did not pre-
18 viously make use of the advanced motor and drive
19 system, or

20 “(2) placed back into service in such taxable
21 year by an end user which upgrades an existing ap-
22 pliance, machine, or equipment with an advanced
23 motor and drive system.

24 For any advanced motor and drive system with a total
25 horsepower of less than 10, such motor energy efficiency
26 improvement tax credit is an amount which bears the

1 same ratio to \$120 as such total horsepower bears to 1
2 horsepower.

3 “(b) ADVANCED MOTOR AND DRIVE SYSTEM.—For
4 purposes of this section, the term ‘advanced motor and
5 drive system’ means a motor and any required associated
6 electronic control which—

7 “(1) offers variable or multiple speed operation,
8 and

9 “(2) uses permanent magnet technology, elec-
10 tronically commutated motor technology, switched
11 reluctance motor technology, synchronous reluctance,
12 or such other motor and drive systems technologies
13 as determined by the Secretary of Energy.

14 “(c) AGGREGATE PER TAXPAYER LIMITATION.—

15 “(1) IN GENERAL.—The amount of the credit
16 determined under this section for any taxpayer for
17 any taxable year shall not exceed the excess (if any)
18 of \$2,000,000 over the aggregate credits allowed
19 under this section with respect to such taxpayer for
20 all prior taxable years.

21 “(2) AGGREGATION RULES.—For purposes of
22 this section, all persons treated as a single employer
23 under subsections (a) and (b) of section 52 shall be
24 treated as 1 taxpayer.

25 “(d) SPECIAL RULES.—

1 “(1) BASIS REDUCTION.—For purposes of this
2 subtitle, the basis of any property for which a credit
3 is allowable under subsection (a) shall be reduced by
4 the amount of such credit so allowed.

5 “(2) NO DOUBLE BENEFIT.—No other credit
6 shall be allowable under this chapter for property
7 with respect to which a credit is allowed under this
8 section.

9 “(3) PROPERTY USED OUTSIDE UNITED STATES
10 NOT QUALIFIED.—No credit shall be allowable under
11 subsection (a) with respect to any property referred
12 to in section 50(b)(1).

13 “(e) APPLICATION.—This section shall not apply to
14 property manufactured or placed back into service before
15 the date which is 6 months after the date of the enactment
16 of this section or after December 31, 2016.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 38(b) is amended by striking “plus”
19 at the end of paragraph (35), by striking the period
20 at the end of paragraph (36) and inserting “, plus”,
21 and by adding at the end the following new para-
22 graph:

23 “(37) the motor energy efficiency improvement
24 tax credit determined under section 45S.”.

1 that is placed in service by the taxpayer during the
2 taxable year, plus

3 “(2) if all chilled water distribution pumps con-
4 nected to the new efficient chiller include variable
5 frequency drives, \$100 multiplied by any tonnage
6 downsizing.

7 “(b) CFC CHILLER.—For purposes of this section,
8 the term ‘CFC chiller’ includes property which—

9 “(1) was installed after 1980 and before 1993,

10 “(2) utilizes chlorofluorocarbon refrigerant, and

11 “(3) until replaced by a new efficient chiller,

12 has remained in operation and utilized for cooling a
13 commercial building.

14 “(c) NEW EFFICIENT CHILLER.—For purposes of
15 this section, the term ‘new efficient chiller’ includes a
16 water-cooled chiller which is certified to meet efficiency
17 standards effective on January 1, 2015, as defined in table
18 6.8 in Standard 90.1-2013 of the American Society of
19 Heating, Refrigerating, and Air Conditioning Engineers.

20 “(d) TONNAGE DOWNSIZING.—For purposes of this
21 section, the term ‘tonnage downsizing’ means the amount
22 by which the tonnage rating of the CFC chiller exceeds
23 the tonnage rating of the new efficient chiller.

24 “(e) ENERGY AUDIT.—As a condition of receiving a
25 tax credit under this section, an energy audit shall be per-

1 formed on the building prior to installation of the new effi-
2 cient chiller, identifying cost-effective energy-saving meas-
3 ures, particularly measures that could contribute to chiller
4 downsizing. The audit shall satisfy criteria that shall be
5 issued by the Secretary of Energy.

6 “(f) PROPERTY USED BY TAX-EXEMPT ENTITY.—In
7 the case of a CFC chiller replaced by a new efficient chiller
8 the use of which is described in paragraph (3) or (4) of
9 section 50(b), the person who sold such new efficient chill-
10 er to the entity shall be treated as the taxpayer that placed
11 in service the new efficient chiller that replaced the CFC
12 chiller, but only if such person clearly discloses to such
13 entity in a document the amount of any credit allowable
14 under subsection (a) and the person certifies to the Sec-
15 retary that the person reduced the price the entity paid
16 for such new efficient chiller by the entire amount of such
17 credit.

18 “(g) TERMINATION.—This section shall not apply to
19 replacements made after December 31, 2017.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 38(b), as amended by this title, is
22 amended by striking “plus” at the end of paragraph
23 (36), by striking the period at the end of paragraph
24 (37) and inserting “, plus”, and by adding at the
25 end the following new paragraph:

1 “(38) the CFC chiller replacement credit deter-
2 mined under section 45T.”.

3 (2) The table of sections for subpart D of part
4 IV of subchapter A of chapter 1, as amended by this
5 title, is amended by adding at the end the following
6 new item:

“Sec. 45T. CFC chiller replacement credit.”.

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

10 **SEC. 306. QUALIFYING EFFICIENT INDUSTRIAL PROCESS**
11 **WATER USE PROJECT CREDIT.**

12 (a) IN GENERAL.—Section 46 is amended by insert-
13 ing a comma at the end of paragraph (4), by striking
14 “and” at the end of paragraph (5), by striking the period
15 at the end of paragraph (6) and inserting “, and”, and
16 by adding at the end the following new paragraph:

17 “(7) the qualifying efficient industrial process
18 water use project credit.”.

19 (b) AMOUNT OF CREDIT.—Subpart E of part IV of
20 subchapter A of chapter 1 is amended by inserting after
21 section 48D the following new section:

22 **“SEC. 48E. QUALIFYING EFFICIENT INDUSTRIAL PROCESS**
23 **WATER USE PROJECT CREDIT.**

24 “(a) IN GENERAL.—

1 “(1) ALLOWANCE OF CREDIT.—For purposes of
2 section 46, the qualifying efficient industrial process
3 water use project credit for any taxable year is an
4 amount equal to the applicable percentage of the
5 qualified investment for such taxable year with re-
6 spect to any qualifying efficient industrial process
7 water use project of the taxpayer.

8 “(2) APPLICABLE PERCENTAGE.—For purposes
9 of subsection (a)—

10 “(A) IN GENERAL.—The applicable per-
11 centage is—

12 “(i) 10 percent in the case of a quali-
13 fying efficient industrial process water use
14 project which achieves a 25 percent or
15 greater (but less than 50 percent) reduc-
16 tion in water use for industrial purposes,

17 “(ii) 20 percent in the case of a quali-
18 fying efficient industrial process water use
19 project which achieves a 50 percent or
20 greater (but less than 75 percent) reduc-
21 tion in water use for industrial purposes,
22 and

23 “(iii) 30 percent in the case of a
24 qualifying efficient industrial process water
25 use project which achieves a 75 percent or

1 greater reduction in water use for indus-
2 trial purposes.

3 “(B) WATER USE.—For purposes of sub-
4 paragraph (A)—

5 “(i) MEASUREMENT OF REDUCTION
6 IN WATER USE.—

7 “(I) IN GENERAL.—The taxpayer
8 shall elect one of the methods speci-
9 fied in clause (ii) for measuring the
10 reduction in water use achieved by a
11 qualifying efficient industrial process
12 water use project.

13 “(II) IRREVOCABLE ELECTION.—
14 An election under subclause (I), once
15 made with respect to a qualifying effi-
16 cient industrial process water use
17 project, shall apply to the taxable year
18 for which made and all subsequent
19 taxable years, and may not be re-
20 voked.

21 “(III) PROJECTED SAVINGS.—
22 The credit under subsection (a) may
23 be claimed on the basis of a reduction
24 in water use which is projected, by a
25 registered professional engineer who is

1 not a related person (within the mean-
2 ing of section 144(a)(3)(A)) to the
3 taxpayer or the installer of eligible
4 property, to be achieved by a quali-
5 fying efficient industrial process water
6 use project. Such projection, if used
7 as a basis for determining the credit
8 under subsection (a), shall be included
9 with the return of tax.

10 “(ii) METHODS SPECIFIED.—The
11 methods specified in this clause are—

12 “(I) a measurement of the per-
13 centage reduction in water use per
14 unit of product manufactured by the
15 taxpayer, and

16 “(II) a measurement of the per-
17 centage reduction in water use per
18 pound of product manufactured by
19 the taxpayer.

20 “(b) QUALIFIED INVESTMENT.—

21 “(1) IN GENERAL.—For purposes of subsection
22 (a), the qualified investment for any taxable year is
23 the basis of eligible property placed in service by the
24 taxpayer during such taxable year which is part of

1 a qualifying efficient industrial process water use
2 project.

3 “(2) EXCEPTIONS.—Such term shall not in-
4 clude any portion of the basis related to—

5 “(A) permitting,

6 “(B) land acquisition, or

7 “(C) infrastructure not directly associated
8 with the implementation of the technology or
9 process improvements of the qualifying efficient
10 industrial process water use project.

11 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
12 TURES RULES MADE APPLICABLE.—Rules similar to
13 the rules of subsections (c)(4) and (d) of section 46
14 (as in effect on the day before the enactment of the
15 Revenue Reconciliation Act of 1990) shall apply for
16 purposes of this section.

17 “(4) SPECIAL RULE FOR SUBSIDIZED ENERGY
18 FINANCING.—Rules similar to the rules of section
19 48(a)(4) (without regard to subparagraph (D) there-
20 of) shall apply for purposes of this section.

21 “(5) LIMITATION.—The amount which is treat-
22 ed for all taxable years with respect to any quali-
23 fying efficient industrial process water use project
24 with respect to any site shall not exceed
25 \$10,000,000.

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

2 “(1) QUALIFYING EFFICIENT INDUSTRIAL
3 PROCESS WATER USE PROJECT.—

4 “(A) IN GENERAL.—The term ‘qualifying
5 efficient industrial process water use project’
6 means, with respect to any site, a project which
7 retrofits or expands an existing facility to im-
8 plement technology or process improvements
9 which are designed to reduce water use for sys-
10 tems that use any form of water in the produc-
11 tion of goods in the manufacturing sector (as
12 defined in North American Industrial Classi-
13 fication System codes 31, 32, and 33), includ-
14 ing any system that uses water for heating,
15 cooling, or energy production for the production
16 of goods in the trade or business of manufac-
17 turing (other than extraction of fossil fuels).
18 Such term shall not include a project which al-
19 ters an existing facility to change the type of
20 goods produced by such facility.

21 “(B) SYSTEMS.—For purposes of subpara-
22 graph (A), the term ‘system’ does not include
23 any system which does not encompass 1 or
24 more complete processes.

1 “(2) ELIGIBLE PROPERTY.—The term ‘eligible
2 property’ means any property—

3 “(A) which is part of a qualifying efficient
4 industrial process water use project and which
5 is necessary for the reduction in water use de-
6 scribed in paragraph (1),

7 “(B)(i) the construction, reconstruction, or
8 erection of which is completed by the taxpayer,
9 or

10 “(ii) which is acquired by the taxpayer if
11 the original use of such property commences
12 with the taxpayer, and

13 “(C) with respect to which depreciation (or
14 amortization in lieu of depreciation) is allow-
15 able.

16 “(3) WATER USE.—

17 “(A) IN GENERAL.—The term ‘water use’
18 means all water taken for use at the site di-
19 rectly from ground and surface water sources
20 together with any water supplied to the site by
21 a regulated water system.

22 “(B) REGULATED WATER SYSTEM.—The
23 term ‘regulated water system’ means a system
24 that supplies water that has been treated to po-
25 table standards.

1 “(d) TERMINATION.—This section shall not apply to
2 periods after December 31, 2017, under rules similar to
3 the rules of section 48(m) (as in effect on the day before
4 the date of the enactment of the Revenue Reconciliation
5 Act of 1990).”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) Section 49(a)(1)(C) is amended by striking
8 “and” at the end of clause (v), by striking the pe-
9 riod at the end of clause (vi) and inserting “, and”,
10 and by adding at the end the following new clause:

11 “(vii) the basis of any property which
12 is part of a qualifying efficient industrial
13 use water project under section 48E.”.

14 (2) The table of sections for subpart E of part
15 IV of subchapter A of chapter 1 is amended by in-
16 serting after the item relating to section 48D the
17 following new item:

“Sec. 48E. Qualifying efficient industrial process water use project credit.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to periods after the date of the
20 enactment of this Act, under rules similar to the rules of
21 section 48(m) of the Internal Revenue Code of 1986 (as
22 in effect on the day before the date of the enactment of
23 the Revenue Reconciliation Act of 1990).

○