

119TH CONGRESS  
1ST SESSION

# S. 2538

To amend the Internal Revenue Code of 1986 to provide a credit for hazard mitigation projects in connection with certain working waterfront property.

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IN THE SENATE OF THE UNITED STATES

JULY 30, 2025

Mr. KING (for himself and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for hazard mitigation projects in connection with certain working waterfront property.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Working Waterfront  
5       Disaster Mitigation Tax Credit Act”.

6       **SEC. 2. WORKING WATERFRONT DISASTER MITIGATION**  
7       **PROJECT CREDIT.**

8       (a) IN GENERAL.—Subpart E of part IV of sub-  
9       chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 48E the fol-  
 2 lowing new section:

3 **“SEC. 48F. WORKING WATERFRONT DISASTER MITIGATION**  
 4 **PROJECT CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 46, the  
 6 working waterfront disaster mitigation project for any tax-  
 7 able year is an amount equal to 30 percent of the qualified  
 8 investment for such taxable year.

9 “(b) LIMITATIONS.—

10 “(1) DOLLAR LIMITATION.—

11 “(A) IN GENERAL.—The amount of the  
 12 credit allowed under this section with respect to  
 13 any taxpayer shall not exceed \$300,000.

14 “(B) AGGREGATION RULES.—All taxpayers  
 15 treated as a single employer under subsection  
 16 (a) or (b) of section 52 or subsection (m) or (o)  
 17 of section 414 shall be treated as a single tax-  
 18 payer for purposes of subparagraph (A).

19 “(C) INFLATION ADJUSTMENT.—In the  
 20 case of any taxable year beginning after Decem-  
 21 ber 31, 2026, the \$300,000 dollar amount in  
 22 subparagraph (A) shall be increased by an  
 23 amount equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-  
2 termined under section 1(f)(3) for the cal-  
3 endar year in which the taxable year be-  
4 gins, by substituting ‘calendar year 2025’  
5 for ‘calendar year 2016’ in subparagraph  
6 (A)(ii) thereof.

7 If any amount as increased under the preceding  
8 sentence is not a multiple of \$10,000, such  
9 amount shall be rounded to the nearest multiple  
10 of \$10,000.

11 “(2) TIME LIMITATION.—No credit shall be al-  
12 lowed to a taxpayer for a taxable year if such tax-  
13 payer has been allowed a credit under this section  
14 (other than qualified progress expenditures allowed  
15 under subsection (c)(3)) for any taxable year in the  
16 10-year period ending with the last day of such tax-  
17 able year.

18 “(c) QUALIFIED INVESTMENT.—

19 “(1) IN GENERAL.—For purposes of this sec-  
20 tion, the qualified investment for any taxable year is  
21 the basis of eligible property placed in service by the  
22 taxpayer during such taxable year which is part of  
23 a qualifying working waterfront disaster mitigation  
24 project.

1           “(2) ELIGIBLE PROPERTY.—For purposes of  
2           this subsection, the term ‘eligible property’ means  
3           property—

4                   “(A) which is tangible property,

5                   “(B) with respect to which depreciation (or  
6           amortization in lieu of depreciation) is allow-  
7           able, and

8                   “(C) which is—

9                           “(i) constructed, reconstructed, or  
10                   erected by the taxpayer, or

11                           “(ii) acquired by the taxpayer if the  
12                   original use of such property commences  
13                   with the taxpayer.

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

20           “(4) COORDINATION WITH REHABILITATION  
21           CREDIT.—The qualified investment with respect to  
22           any qualifying working waterfront disaster mitiga-  
23           tion project for any taxable year shall not include  
24           that portion of the basis of any project which is at-

1       tributable to qualified rehabilitation expenditures (as  
2       defined in section 47(c)(2)).

3       “(d) QUALIFYING WORKING WATERFRONT DIS-  
4       ASTER MITIGATION PROJECT.—For purposes of this sec-  
5       tion—

6               “(1) IN GENERAL.—The term ‘qualifying work-  
7       ing waterfront disaster mitigation project’ means  
8       any project—

9               “(A) which is substantially designed in  
10       compliance with—

11               “(i) in the case of any project placed  
12       in service before January 1, 2032, the  
13       2021 International Code Council Inter-  
14       national Building Code, and

15               “(ii) in the case of any project placed  
16       in service on or after such date, the most  
17       recent applicable International Code Coun-  
18       cil model code which has been affirmed by  
19       the Secretary for purposes of this section  
20       not later than 5 years before the date such  
21       project is placed in service, and

22               “(B) which designed to prevent or mitigate  
23       damage to working waterfront property from  
24       natural hazards using one or more of the fol-  
25       lowing:

1                   “(i) STRUCTURAL ELEVATION.—The  
2                   elevation of continuous foundation walls,  
3                   the elevation of structures on open founda-  
4                   tions (such as piles, piers, posts or col-  
5                   umns), the elevation of structures on fill,  
6                   the conversion of the second story, and  
7                   other methods involving structural ele-  
8                   vation as the Secretary may prescribe.

9                   “(ii) FLOOD RISK REDUCTION.—  
10                  Stormwater management (including the  
11                  construction, installation or modification of  
12                  culverts, drainage pipes, pumping stations,  
13                  floodgates, bioswales, detention and reten-  
14                  tion basins, and other stormwater manage-  
15                  ment facilities), flood diversion and storage  
16                  measures, slope stabilization or grading to  
17                  direct flood waters away from businesses,  
18                  flood protection measures for water and  
19                  sanitary sewer systems or other utility sys-  
20                  tems, vegetation management for shoreline  
21                  stabilization (coastal, riverine, riparian and  
22                  other littoral zones), flood protection and  
23                  stabilization measures for roads and  
24                  bridges, and such other flood risk reduc-

tion methods as the Secretary may prescribe.

“(iii) SHORELINE STABILIZATION.—Reducing the risk to structures or infrastructure from erosion and landslides (including through the installation of geosynthetics, surface and subsurface drainage, stabilizing sod, and vegetative buffer strips), preserving mature vegetation, decreasing slope angles, stabilizing with riprap and other means of slope anchoring, and other shoreline stabilization methods as the Secretary may prescribe.

“(iv) FLOODPROOFING.—Creating a space that is protected by walls that are substantially impermeable and resistant to flood loads, the use of flood-damage-resistant materials and construction techniques to minimize flood damage to areas below the flood protection level of a structure.

“(v) RETROFITTING.—Changes made to an existing structure to reduce or eliminate the possibility of damage to that structure from flooding, erosion, extreme

1 temperatures, high winds, or other haz-  
 2 ards.

3 “(vi) WARNING SYSTEMS.—Equip-  
 4 ment and systems to warn residents of im-  
 5 pending hazards (including enhanced or re-  
 6 versed 911 systems), weather stations, rain  
 7 gauges, flood alarms, and such other warn-  
 8 ing systems as the Secretary may pre-  
 9 scribe.

10 “(2) WORKING WATERFRONT PROPERTY.—The  
 11 term ‘working waterfront property’ means real prop-  
 12 erty—

13 “(A) which is located within the United  
 14 States or a possession of the United States, and

15 “(B) which is used by the taxpayer to  
 16 carry on an active trade or business—

17 “(i) which meets the gross receipts  
 18 test of paragraph (3), and

19 “(ii) which—

20 “(I) provides access to navigable  
 21 waters to persons engaged in commer-  
 22 cial fishing, recreational fishing and  
 23 boating, boatbuilding, aquaculture,  
 24 dredging, or other water-dependent  
 25 activities, and



1 “(II) is used for or supports ac-  
2 tivities described in subclause (I).

3 “(3) GROSS RECEIPTS TEST.—

4 “(A) IN GENERAL.—A trade or business  
5 meets the gross receipts test of this paragraph  
6 if the average annual gross receipts of such  
7 trade or business for the 3-taxable-year period  
8 preceding such taxable year does not exceed  
9 \$47,000,000.

10 “(B) AGGREGATION RULES.—All trades or  
11 business of a taxpayer that are treated as a sin-  
12 gle employer under subsection (a) or (b) of sec-  
13 tion 52 or subsection (m) or (o) of section 414  
14 shall be treated as one trade or business for  
15 purposes of subparagraph (A).

16 “(C) OTHER RULES.—Rules similar to the  
17 rules of section 448(c)(3) shall apply for pur-  
18 poses of this paragraph.

19 “(D) INFLATION ADJUSTMENT.—In the  
20 case of any taxable year beginning after Decem-  
21 ber 31, 2026, the dollar amount in subpara-  
22 graph (A) shall be increased by an amount  
23 equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-  
 2 termined under section 1(f)(3) for the cal-  
 3 endar year in which the taxable year be-  
 4 gins, by substituting ‘calendar year 2025’  
 5 for ‘calendar year 2016’ in subparagraph  
 6 (A)(ii) thereof.

7 If any amount as increased under the preceding  
 8 sentence is not a multiple of \$1,000,000, such  
 9 amount shall be rounded to the nearest multiple  
 10 of \$1,000,000.

11 “(e) REGULATIONS.—The Secretary, in consultation  
 12 with the Administrator of the Federal Emergency Man-  
 13 agement Agency, shall issue such regulations or other  
 14 guidance as may be necessary or appropriate to carry out  
 15 the purposes of this section.”.

16 (b) INCLUSION IN INVESTMENT CREDIT.—Section 46  
 17 of the Internal Revenue Code of 1986 is amended by strik-  
 18 ing “and” at the end of paragraph (6), by striking the  
 19 period at the end of paragraph (7) and inserting “, and”,  
 20 and by adding at the end the following new paragraph:

21 “(8) the working waterfront disaster mitigation  
 22 project credit.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 49(a)(1)(C) of the Internal Revenue  
 25 Code of 1986 is amended by striking “and” at the

1 end of clause (vii), by striking the period at the end  
 2 of clause (viii) and inserting “, and”, and by adding  
 3 at the end the following:

4 “(ix) the basis of any property which  
 5 is part of a qualifying working waterfront  
 6 disaster mitigation project (as defined in  
 7 section 48F(d)(2)).”.

8 (2) Section 50(a)(2)(E) of such Code is amend-  
 9 ed by striking “or 48E(e)” and inserting “48E(e),  
 10 or 48F(c)(2)”.

11 (3) The table of sections for subpart E of part  
 12 IV of subchapter A of chapter 1 of such Code is  
 13 amended by inserting after the item relating to sec-  
 14 tion 48E the following new item:

“Sec. 48F. Working waterfront disaster mitigation project credit.”.

15 (d) TREATMENT OF POSSESSIONS.—

16 (1) PAYMENTS TO POSSESSIONS WITH MIRROR  
 17 CODE TAX SYSTEMS.—The Secretary of the Treas-  
 18 ury shall pay to each possession of the United States  
 19 which has a mirror code tax system amounts equal  
 20 to the loss (if any) to that possession by reason of  
 21 the amendments made by this section. Such  
 22 amounts shall be determined by the Secretary of the  
 23 Treasury based on information provided by the gov-  
 24 ernment of the respective possession.

1           (2) PAYMENTS TO OTHER POSSESSIONS.—The  
2       Secretary of the Treasury shall pay to each posses-  
3       sion of the United States which does not have a mir-  
4       ror code tax system amounts estimated by the Sec-  
5       retary of the Treasury as being equal to the aggre-  
6       gate benefits (if any) that would have been provided  
7       to residents of such possession by reason of the  
8       amendments made by this section if a mirror code  
9       tax system had been in effect in such possession.  
10      The preceding sentence shall not apply unless the re-  
11      spective possession has a plan, which has been ap-  
12      proved by the Secretary of the Treasury, under  
13      which such possession will promptly distribute such  
14      payments to its residents.

15      (e) EFFECTIVE DATE.—The amendments made by  
16      this section shall apply to periods after December 31,  
17      2025, in taxable years ending after such date, under rules  
18      similar to the rules of section 48(m) of the Internal Rev-  
19      enue Code of 1986 (as in effect on the day before the date  
20      of the enactment of the Revenue Reconciliation Act of  
21      1990).

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