

110TH CONGRESS
1ST SESSION

S. 822

To amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2007

Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. KERRY, Mr. BUNNING, Mr. BINGAMAN, Mr. SALAZAR, Mr. COLEMAN, Mr. SMITH, Mr. ALLARD, and Mr. CORNYN) 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 certain energy-related tax provisions, 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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “EXTEND the Energy Efficiency Incentives Act of
6 2007”.

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; etc.

TITLE I—NON-BUSINESS ENERGY IMPROVEMENTS

Sec. 101. Performance based energy improvements for non-business property.
 Sec. 102. Extension and modification of credit for nonbusiness energy property.
 Sec. 103. Modification of credit for solar electric property and solar hot water
 property.

TITLE II—BUSINESS-RELATED ENERGY IMPROVEMENTS

Sec. 201. Extension and modification of new energy efficient home credit.
 Sec. 202. Extension and modification of deduction for energy efficient commer-
 cial buildings.
 Sec. 203. Deduction for energy efficient low-rise buildings.
 Sec. 204. Energy efficient property deduction.
 Sec. 205. Extension of investment tax credit with respect to solar energy prop-
 erty and qualified fuel cell property.

TITLE III—INCENTIVES FOR ENERGY SAVINGS CERTIFICATIONS

Sec. 301. Credit for energy savings certifications.

**6 TITLE I—NON-BUSINESS
 7 ENERGY IMPROVEMENTS**

**8 SEC. 101. PERFORMANCE BASED ENERGY IMPROVEMENTS
 9 FOR NON-BUSINESS PROPERTY.**

10 (a) IN GENERAL.—Subpart A of part IV of sub-
 11 chapter A of chapter 1 is amended by inserting after sec-
 12 tion 25D the following new section:

**13 “SEC. 25E. PERFORMANCE BASED ENERGY IMPROVE-
 14 MENTS.**

15 “(a) IN GENERAL.—In the case of an individual,
 16 there shall be allowed as a credit against the tax imposed

1 by this chapter for the taxable year an amount equal to
2 the amount of qualified energy efficiency expenditures
3 paid or incurred by the taxpayer during the taxable year.

4 “(b) LIMITATIONS.—

5 “(1) IN GENERAL.—The amount allowed as a
6 credit under subsection (a) shall not exceed the
7 product of—

8 “(A) the qualified energy savings achieved,
9 and

10 “(B) \$4,000.

11 “(2) MINIMUM AMOUNT OF QUALIFIED ENERGY
12 SAVINGS.—No credit shall be allowed under sub-
13 section (a) with respect to any principal residence
14 which achieves a qualified energy savings of less
15 than 20 percent.

16 “(3) LIMITATION BASED ON AMOUNT OF
17 TAX.—In the case of taxable years to which section
18 26(a)(2) does not apply, the credit allowed under
19 subsection (a) for any taxable year shall not exceed
20 the excess of—

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

24 “(B) the sum of the credit allowable under
25 this subparagraph (other than this section and sec-

3 “(c) QUALIFIED ENERGY EFFICIENCY EXPENDI-
4 TURES.—For purposes of this section:

5 “(1) IN GENERAL.—The term ‘qualified energy
6 efficiency expenditures’ means any amount paid or
7 incurred which is related to producing qualified en-
8 ergy savings in a principal residence of the taxpayer
9 which is located in the United States.

10 “(2) NO DOUBLE BENEFIT FOR CERTAIN EX-
11 PENDITURES.—The term ‘qualified energy efficiency
12 expenditures’ shall not include any expenditure for
13 which a deduction or credit is otherwise allowed to
14 the taxpayer under this chapter.

15 “(3) PRINCIPAL RESIDENCE.—The term ‘prin-
16 cipal residence’ has the same meaning as when used
17 in section 121, except that—

18 “(A) no ownership requirement shall be
19 imposed, and

20 “(B) the period for which a building is
21 treated as used as a principal residence shall
22 also include the 60-day period ending on the 1st
23 day on which it would (but for this subpara-
24 graph) first be treated as used as a principal
25 residence.

1 “(d) QUALIFIED ENERGY SAVINGS.—For purposes of
2 this section—

3 “(1) IN GENERAL.—The term ‘qualified energy
4 savings’ means, with respect to any principal resi-
5 dence, the amount (measured as a percentage) by
6 which—

7 “(A) the annual energy use with respect to
8 the principal residence after qualified energy ef-
9 ficiency expenditures are made, as certified
10 under paragraph (2), is less than

11 “(B) the annual energy use with respect to
12 the principal residence before the qualified en-
13 ergy efficiency expenditures were made, as cer-
14 tified under paragraph (2).

15 In determining annual energy use under subpara-
16 graph (B), any energy efficiency improvements
17 which are not attributable to qualified energy effi-
18 ciency expenditures shall be disregarded.

19 “(2) CERTIFICATION.—

20 “(A) IN GENERAL.—The Secretary, in con-
21 sultation with the Secretary of Energy, shall
22 prescribe the procedures and methods for the
23 making of certifications under this paragraph
24 based on the Residential Energy Services Net-

1 work (RESNET) Technical Guidelines in effect
2 on the date of the enactment of this section.

3 “(B) QUALIFIED INDIVIDUALS.—Any cer-
4 tification made under this paragraph may only
5 be made by an individual who is recognized by
6 an organization certified by the Secretary for
7 such purposes.

8 "(e) SPECIAL RULES.—For purposes of this section
9 rules similar to the rules under paragraphs (4), (5), (6),
10 (7), (8), and (9) of section 25D(e) and section 25C(e)(2)
11 shall apply.

12 "(f) BASIS ADJUSTMENTS.—For purposes of this
13 subtitle, if a credit is allowed under this section with re-
14 spect to any expenditure with respect to any property, the
15 increase in the basis of such property which would (but
16 for this subsection) result from such expenditure shall be
17 reduced by the amount of the credit so allowed.

18 “(g) TERMINATION.—This section shall not apply
19 with respect to any property placed in service after Decem-
20 ber 31, 2011.”.

21 (b) INTERIM GUIDANCE ON CERTIFICATION.—

22 (1) IN GENERAL.—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary
24 of the Treasury, in consultation with the Secretary
25 of Energy, shall issue interim guidance on—

(C) how participation in State energy efficiency programs can be used in the procedures and methods described in subparagraph (A).

13 (2) CONSULTATION WITH STAKEHOLDERS.—

14 (A) IN GENERAL.—The Secretary of the
15 Treasury, in issuing guidance pursuant to para-
16 graph (1), shall consider comments from energy
17 efficiency experts and other interested parties.

18 (B) OTHER CONSIDERATIONS.—In the case
19 of guidance issued pursuant to paragraph
20 (1)(B), the Secretary of the Treasury shall also
21 consider—

22 (i) the Residential Energy Services
23 Network Technical Guidelines and other
24 pertinent guidelines for evaluating energy
25 savings;

(ii) energy modeling software, including software accredited through the Residential Energy Services Network; and

4 (iii) quality assurance procedures of
5 the Building Performance Institute, Home
6 Performance through Energy Star, and the
7 Residential Energy Services Network.

8 (c) ALTERNATIVE CERTIFICATION METHODS.—

16 (2) DETERMINATION.—The Secretary of the
17 Treasury shall make a determination on the ap-
18 proval or disapproval of such alternative methods of
19 certification not later than 90 days after receiving a
20 petition under paragraph (1).

21 (d) CONFORMING AMENDMENTS.—

22 (1) Section 26(a)(1) is amended by striking
23 “and 25B” and inserting “25B, and 25E”.

24 (2) Section 1016(a) is amended by striking
25 "and" at the end of paragraph (36), by striking the

1 period at the end of paragraph (37) and inserting “, 2 and”, and by adding at the end the following new 3 paragraph:

4 “(38) to the extent provided in section 5 25E(f).”.

6 (3) The table of sections for subpart A of part 7 IV of subchapter A chapter 1 is amended by insert- 8 ing after the item relating to section 25D the fol- 9 lowing new item:

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

10 (e) EFFECTIVE DATES.—The amendments made by 11 this section shall apply to amounts paid or incurred in tax- 12 able years beginning after the date of the enactment of 13 this Act.

14 **SEC. 102. EXTENSION AND MODIFICATION OF CREDIT FOR**
15 **NONBUSINESS ENERGY PROPERTY.**

16 (a) EXTENSION.—Subsection (g) of section 25C (re- 17 lating to termination) is amended by striking “December 18 31, 2007” and inserting “December 31, 2011”.

19 (b) LABOR COSTS FOR QUALIFIED ENERGY EFFI- 20 CIENCY IMPROVEMENTS.—Section 25C(c)(1) is amended 21 by adding at the end the following new flush sentence:

22 “The amount taken into account under subsection 23 (a)(1) with respect to qualified energy efficiency im- 24 provements shall include expenditures for labor costs 25 properly allocable to the onsite preparation, assem-

1 bly, or original installation of any component de-
2 scribed in this paragraph.”.

3 (c) MODIFICATIONS FOR RESIDENTIAL ENERGY EF-
4 FICIENCY PROPERTY EXPENDITURES.—

5 (1) INCREASED LIMITATION FOR OIL FURNACES
6 AND NATURAL GAS, PROPANE, AND OIL HOT WATER
7 BOILERS.—

8 (A) IN GENERAL.—Subparagraphs (B) and
9 (C) of section 25C(b)(3) are amended to read
10 as follows:

11 “(B) \$150 for any qualified natural gas
12 furnace or qualified propane furnace, and

13 “(C) \$300 for—

14 “(i) any item of energy-efficient build-
15 ing property, and

16 “(ii) any qualified oil furnace, qualifi-
17 ed natural gas hot water boiler, qualified
18 propane hot water boiler, or qualified oil
19 hot water boiler.”.

20 (B) CONFORMING AMENDMENT.—Clause
21 (ii) of section 25C(d)(2)(A) is amended to read
22 as follows:

23 “(ii) any qualified natural gas fur-
24 nace, qualified propane furnace, qualified
25 oil furnace, qualified natural gas hot water

1 boiler, qualified propane hot water boiler,
2 or qualified oil hot water boiler, or".

3 (2) MODIFICATIONS OF STANDARDS FOR EN-
4 ERGY-EFFICIENT BUILDING PROPERTY.—

5 (A) ELECTRIC HEAT PUMPS.—Subpara-
6 graph (B) of section 25C(d)(3) is amended to
7 read as follows:

8 “(A) an electric heat pump which achieves
9 the highest efficiency tier established by the
10 Consortium for Energy Efficiency, as in effect
11 on January 1, 2008.”.

12 (B) CENTRAL AIR CONDITIONERS.—Sec-
13 tion 25C(d)(3)(D) is amended by striking
14 “2006” and inserting “2008”.

15 (C) WATER HEATERS.—Subparagraph (E)
16 of section 25C(d) is amended to read as follows:

17 “(E) a natural gas, propane, or oil water
18 heater which has either an energy factor of at
19 least 0.80 or a thermal efficiency of at least 90
20 percent.”.

21 (D) OIL FURNACES AND HOT WATER BOIL-
22 ERS.—Paragraph (4) of section 25C(d) is
23 amended to read as follows:

24 “(4) QUALIFIED NATURAL GAS, PROPANE, AND
25 OIL FURNACES AND HOT WATER BOILERS.—

1 “(A) QUALIFIED NATURAL GAS FUR-
2 NACE.—The term ‘qualified natural gas fur-
3 nace’ means any natural gas furnace which
4 achieves an annual fuel utilization efficiency
5 rate of not less than 95.

6 “(B) QUALIFIED NATURAL GAS HOT
7 WATER BOILER.—The term ‘qualified natural
8 gas hot water boiler’ means any natural gas hot
9 water boiler which achieves an annual fuel utili-
10 zation efficiency rate of not less than 90.

11 “(C) QUALIFIED PROPANE FURNACE.—
12 The term ‘qualified propane furnace’ means any
13 propane furnace which achieves an annual fuel
14 utilization efficiency rate of not less than 95.

15 “(D) QUALIFIED PROPANE HOT WATER
16 BOILER.—The term ‘qualified propane hot
17 water boiler’ means any propane hot water boil-
18 er which achieves an annual fuel utilization effi-
19 ciency rate of not less than 90.

20 “(E) QUALIFIED OIL FURNACES.—The
21 term ‘qualified oil furnace’ means any oil fur-
22 nace which achieves an annual fuel utilization
23 efficiency rate of not less than 90.

24 “(F) QUALIFIED OIL HOT WATER BOIL-
25 ER.—The term ‘qualified oil hot water boiler’

1 means any oil hot water boiler which achieves
2 an annual fuel utilization efficiency rate of not
3 less than 90.”.

4 (3) ELIMINATION OF LIFETIME LIMITATION.—
5 Paragraph (1) of section 25C(b) is amended by in-
6 serting “by reason of subsection (a)(1)” after
7 “under this section”.

8 (d) MODIFICATION OF QUALIFIED ENERGY EFFI-
9 CIENCY IMPROVEMENTS.—

10 (1) IN GENERAL.—Paragraph (1) of section
11 25C(c) is amended by inserting “, or an asphalt roof
12 with appropriate cooling granules,” before “which
13 meet the Energy Star program requirements”.

14 (2) BUILDING ENVELOPE COMPONENT.—Sub-
15 paragraph (D) of section 25C(c)(2) is amended—

16 (A) by inserting “or asphalt roof” after
17 “metal roof”, and

18 (B) by inserting “or cooling granules”
19 after “pigmented coatings”.

20 (e) NATURAL GAS FIRED HEAT PUMPS.—Section
21 25C(d)(3), as amended by this section, is amended by
22 striking “and” at the end of subparagraph (D), by strik-
23 ing the period at the end of subparagraph (E) and insert-
24 ing “, and”, and by adding at the end the following new
25 subparagraph:

1 “(F) a natural gas fired heat pump with a
2 heating coefficient of performance (COP) of at
3 least 1.1.”.

4 (f) ELIMINATION OF CREDIT FOR QUALIFIED EN-
5 ERGY EFFICIENCY IMPROVEMENTS IN 2010.—

6 (1) IN GENERAL.—Subsection (a) of section
7 25C is amended to read as follows:

8 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
9 dividual, there shall be allowed as a credit against the tax
10 imposed by this chapter for the taxable year an amount
11 equal to the amount of residential energy property expend-
12 itures paid or incurred by the taxpayer during the taxable
13 year.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 25C(b), as amended by sub-
16 section (b), is amended by striking paragraphs
17 (1) and (2) and by redesignating paragraph (3)
18 as paragraph (1).

19 (B) Section 25C(b)(1), as redesignated by
20 subparagraph (A), is amended by striking “by
21 reason of subsection (a)(2)”.

22 (C) Section 25C is amended by striking
23 subsection (c).

24 (g) CLARIFICATION OF ELIGIBILITY OF STANDARDS
25 FOR QUALIFIED ENERGY PROPERTY.—Section

1 25C(d)(2)(C) is amended by striking “and” at the end of
2 clause (i), by striking the period at the end of clause (ii)
3 and inserting “, and”, and by adding at the end the fol-
4 lowing new clause:

5 “(iii) shall allow for the testing of
6 products regardless of the size or capacity
7 of the product.”.

8 (h) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graphs (2) and (3), the amendments made by this
11 section shall apply to property placed in service after
12 the date of the enactment of this Act.

13 (2) STANDARDS FOR ELECTRIC HEAT PUMPS
14 AND CENTRAL AIR CONDITIONERS.—The amend-
15 ments made by subparagraphs (A) and (B) sub-
16 section (c)(2) shall apply to property placed in serv-
17 ice after December 31, 2007.

18 (3) ELIMINATION OF CREDIT FOR QUALIFIED
19 ENERGY EFFICIENCY IMPROVEMENTS.—The amend-
20 ments made by subsection (f) shall apply to property
21 placed in service after December 31, 2009.

1 **SEC. 103. MODIFICATION OF CREDIT FOR SOLAR ELECTRIC**
2 **PROPERTY AND SOLAR HOT WATER PROP-**
3 **ERTY.**

4 (a) IN GENERAL.—Subsection (a) of section 25D (re-
5 lating to allowance of credit) is amended by striking para-
6 graphs (1) and (2) and inserting the following:

7 “(1) 100 percent of the qualified solar electric
8 property expenditures made by the taxpayer during
9 such year,

10 “(2) 100 percent of the qualified solar hot
11 water property expenditures made by the taxpayer
12 during such year, and”.

13 (b) LIMITATIONS.—

14 (1) IN GENERAL.—Paragraph (1) of section
15 25D(b) is amended by striking subparagraphs (A)
16 and (B) and inserting the following:

17 “(A) \$2 with respect to each peak watt of
18 capacity of qualified solar electric property for
19 which qualified solar electric property expendi-
20 tures are made,

21 “(B) in the case of qualified solar water
22 heating property expenditures, an amount equal
23 to—

24 “(i) in the case of a dwelling unit
25 which uses electricity to heat water, \$0.35
26 with respect to each kilowatt per year of

1 savings of qualified solar hot water prop-
2 erty for which qualified solar water heating
3 property expenditures are made, or

4 “(ii) in the case of a dwelling unit
5 which uses natural gas to heat water, \$7
6 with respect to each annual Therm of nat-
7 ural gas savings of qualified solar hot
8 water property for which qualified solar
9 water heating property expenditures are
10 made, and”.

11 (2) DETERMINATION OF SAVINGS.—Paragraph

12 (1) of section 25D(b) is amended by adding at the
13 end the following new flush sentence:

14 “For purposes of subparagraph (B), savings shall be
15 determined under regulations prescribed by the Sec-
16 retary based on the OG-300 Standard for the An-
17 nual Performance of OG-300 Certified Systems of
18 the Solar Rating and Certification Corporation.”.

19 (c) DEFINITIONS.—

20 (1) IN GENERAL.—Section 25D(d) is amend-
21 ed—

22 (A) by redesignating paragraph (3) as
23 paragraph (5), and

24 (B) by striking paragraphs (1) and (2) and
25 inserting the following:

1 “(1) QUALIFIED SOLAR ELECTRIC PROPERTY
2 EXPENDITURES.—The term ‘qualified solar electric
3 property expenditures’ means any amount paid or
4 incurred for qualified solar electric property.

5 “(2) QUALIFIED SOLAR ELECTRIC PROPERTY.—
6 The term ‘qualified solar electric property’ means
7 solar electric property (as defined in section
8 179G(c)(2)(B)) installed on or in connection with a
9 dwelling unit located in the United States and used
10 as a residence by the taxpayer.

11 “(3) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURES.—The term ‘qualified solar
12 water heating property expenditures’ means any
13 amount paid or incurred for qualified solar hot
14 water property.

16 “(4) QUALIFIED SOLAR HOT WATER PROPERTY.—The term ‘qualified solar hot water property’
17 means solar hot water property (as defined in sec-
18 tion 179G(c)(2)(C)) installed on or in connection
19 with a dwelling unit located in the United States
20 and used as a residence by the taxpayer.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 25D(e)(2) is amended by strik-
24 ing “property described in paragraph (1) and
25 (2) of subsection (d)” and inserting “qualified

1 solar electric property or qualified solar hot
2 water property".

3 (B) Section 25D(e)(4)(C) is amended by
4 striking "paragraphs (1), (2), and (3)" and in-
5 serting "paragraphs (1),(3), and (5)".

6 (d) DOLLAR AMOUNTS IN CASE OF JOINT OCCU-
7 PANCY.—Clauses (i) and (ii) of section 25D(e)(4)(A) are
8 amended to read as follows:

9 “(i) \$2 in the case of each peak watt
10 of capacity of qualified solar electric prop-
11 erty for which qualified solar electric prop-
12 erty expenditures are made,

13 “(ii) in the case of qualified solar
14 water heating property expenditures, an
15 amount equal to—

16 “(I) in the case of a dwelling unit
17 which uses electricity to heat water,
18 \$0.35 with respect to each kilowatt
19 per year of savings of qualified solar
20 hot water property for which qualified
21 solar water heating property expendi-
22 tures are made, or

23 “(II) in the case of a dwelling
24 unit which uses natural gas to heat
25 water, \$7 with respect to each annual

5 (e) EXTENSION OF CREDIT.—Subsection (g) of sec-
6 tion 25D is amended by striking “2007” and inserting
7 “2010”.

8 (f) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to property placed in service after
10 the date of the enactment of this Act.

TITLE II—BUSINESS-RELATED ENERGY IMPROVEMENTS

13 SEC. 201. EXTENSION AND MODIFICATION OF NEW ENERGY
14 EFFICIENT HOME CREDIT.

15 (a) EXTENSION.—Subsection (g) of section 45L (re-
16 lating to termination), as amended by section 205 of divi-
17 sion A of the Tax Relief and Health Care Act of 2006,
18 is amended by striking “December 31, 2008” and insert-
19 ing “December 31, 2011”.

20 (b) MODIFICATION.—

21 (1) IN GENERAL.—Subparagraph (B) of section
22 45L(a)(1) is amended to read as follows:

23 “(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

1 “(ii) used by such eligible contractor as a
2 residence during the taxable year.”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by this subsection shall take effect as if included in
5 section 1332 of the Energy Policy Act of 2005.

6 **SEC. 202. EXTENSION AND MODIFICATION OF DEDUCTION**

7 **FOR ENERGY EFFICIENT COMMERCIAL**
8 **BUILDINGS.**

9 (a) EXTENSION.—Subsection (h) of section 179D
10 (relating to termination) is amended to read as follows:

11 “(h) TERMINATION.—This section shall not apply
12 with respect to property—

13 “(1) which is certified under subsection (d)(6)
14 after December 31, 2012, or

15 “(2) which is placed in service after December
16 31, 2014.

17 A provisional certification shall be treated as meeting the
18 requirements of paragraph (1) if it is based on the build-
19 ing plans, subject to inspection and testing after installa-
20 tion.”.

21 (b) INCREASE IN MAXIMUM AMOUNT OF DEDUC-
22 TION.—

23 (1) IN GENERAL.—Subparagraph (A) of section
24 179D(b)(1) is amended by striking “\$1.80” and in-
25 serting “\$2.25”.

3 (A) by striking “\$.60” and inserting
4 “\$0.75”, and

5 (B) by striking “\$1.80” and inserting
6 “\$2.25”

7 (c) MODIFICATIONS TO CERTAIN SPECIAL RULES —

8 (1) METHODS OF CALCULATING ENERGY SAV-
9 INGS.—

10 (A) IN GENERAL.—Paragraph (2) of sec-
11 tion 179D(d) is amended—

12 (i) by striking “based on” and insert-
13 ing “in accordance with”

14 (ii) by inserting “, except as necessary
15 to carry out the requirements of this sec-
16 tion, to accommodate a reference to Stand-
17 ard 90.1-2001, to extend the applicability
18 of such manual to national conditions, or
19 to update technical standards based on
20 new information” before the period at the
21 end, and

22 (iii) by adding at the end the fol-
23 lowing new sentence: "The calculation
24 methods contained in such regulations
25 shall also provide for the calculation of ap-

1 appropriate energy savings for design meth-
2 ods and technologies not otherwise credited
3 in such manual or standard, including en-
4 ergy savings associated with natural ven-
5 tilation, evaporative cooling, automatic
6 lighting controls (such as occupancy sen-
7 sors, photocells, and timeclocks),
8 daylighting, designs utilizing semi-condi-
9 tioned spaces which maintain adequate
10 comfort conditions without air conditioning
11 or without heating, improved fan system
12 efficiency (including reductions in static
13 pressure), advanced unloading mechanisms
14 for mechanical cooling (such as multiple or
15 variable speed compressors), on-site gen-
16 eration of electricity (including combined
17 heat and power systems, fuel cells, and re-
18 newable energy generation such as solar
19 energy), and wiring with lower energy
20 losses than wiring satisfying Standard
21 90.1-2001 requirements for building power
22 distribution systems.”.

23 (B) REQUIREMENTS FOR COMPUTER SOFT-
24 WARE USED IN CALCULATING ENERGY AND
25 POWER CONSUMPTION COSTS.—Paragraph

1 (3)(B) of section 179D(d) is amended by strik-
2 ing “and” at the end of clause (ii), by striking
3 the period at the end of clause (iii) and insert-
4 ing “, and”, and by adding at the end the fol-
5 lowing:

7 “(I) generates the features, en-
8 ergy use, and energy and power con-
9 sumption costs of a reference building
10 which meets Standard 90.1–2001,

11 “(II) generates the features, en-
12 ergy use, and energy and power con-
13 sumption costs of a compliant build-
14 ing or system which reduces the an-
15 nual energy and power costs by 50
16 percent compared to Standard 90.1–
17 2001, and

4 (A) by striking “The Secretary” and in-
5 serting the following:

7 and

8 (B) by adding at the end the following:

10 For purposes of clause (i)—

1 or meets the relevant prescriptive cri-
2 teria under subclause (I), and

15 (d) ALTERNATIVE STANDARDS.—Section 179D(d) is
16 amended by adding at the end the following new para-
17 graph:

18 “(7) ALTERNATIVE STANDARDS PENDING
19 FINAL REGULATIONS.—Until such time as the Sec-
20 retary issues final regulations under paragraph
21 (1)(B)—

22 “(A) in the case of property which is part
23 of a building envelope, the building envelope
24 system target under paragraph (1)(A)(ii) shall
25 be a 7 percent reduction in total annual energy

1 and power costs (determined in the same man-
2 ner as under subsection (c)(1)(D)), and

3 “(B) in the case of property which is part
4 of the heating, cooling, ventilation, and hot
5 water systems, the heating, cooling, ventilation,
6 and hot water system shall be treated as meet-
7 ing the target under paragraph (1)(A)(ii) if it
8 would meet the requirement in subsection
9 (c)(1)(D) if combined with a building envelope
10 system and lighting system which met their re-
11 spective targets under paragraph(1)(A)(ii) (in-
12 cluding interim targets in effect under sub-
13 sections (f) and subparagraph (A)).”.

14 (e) MODIFICATIONS TO LIGHTING STANDARDS.—

15 (1) STANDARDS TO BE ALTERNATE STAND-
16 ARDS.—Subsection (f) of section 179D is amended
17 by—

18 (A) striking “INTERIM” in the heading and
19 inserting “ALTERNATIVE”, and

20 (B) inserting “, or, if the taxpayer elects,
21 in lieu of the target set forth in such final regu-
22 lations” after “lighting system” at the end of
23 the matter preceding paragraph (1).

24 (2) QUALIFIED INDIVIDUALS.—Section
25 179D(d)(6)(C) is amended by adding at the end the

1 following: “For purposes of certification of whether
2 the alternative target for lighting systems under
3 subsection (f) is met, individuals qualified to deter-
4 mine compliance shall include individuals who are
5 certified as Lighting Certified (LC) by the National
6 Council on Qualifications for the Lighting Profes-
7 sions, Certified Energy Managers (CEM) by the As-
8 sociation of Energy Engineers, and LEED Accred-
9 ited Professionals (AP) by the U.S. Green Buildings
10 Council.”.

11 (3) REQUIREMENT FOR BILEVEL SWITCHING.—
12 Section 179D(f)(2) is amended by adding at the end
13 the following new subparagraph:

14 “(3) APPLICATION OF SUBSECTION TO BILEVEL
15 SWITCHING.—

16 “(A) IN GENERAL.—Notwithstanding para-
17 graph (2)(C)(i), this subsection shall apply to a
18 system which does not include provisions for
19 bilevel switching if the reduction in lighting
20 power density is at least 37.5 percent of the
21 minimum requirements in Table 9.3.1.1 or
22 Table 9.3.1.2. (not including additional interior
23 lighting allowances) of Standard 90.1–2001.

24 “(B) REDUCTION IN DEDUCTION.—In the
25 case of a system to which this subsection ap-

1 plies by reason of subparagraph (A), paragraph
2 (2) shall be applied—

3 “(i) by substituting ‘50 percent’ for
4 ‘40 percent’ in subparagraph (A) thereof,
5 and

6 “(ii) in subparagraph (B)(ii) there-
7 of—

8 “(I) by substituting ‘37.5 per-
9 centage points’ for ‘25 percentage
10 points’, and

11 “(II) by substituting ‘12.5’ for
12 ‘15.’.”.

13 (f) PUBLIC PROPERTY.—Paragraph (4) of section
14 179(d) is amended by striking “the Secretary shall pro-
15 mulgate a regulation to allow the allocation of the deduc-
16 tion” and inserting “the deduction under this section shall
17 be allowed”.

18 (g) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property placed in service in
20 taxable years beginning after the date of the enactment
21 of this Act.

22 **SEC. 203. DEDUCTION FOR ENERGY EFFICIENT LOW-RISE
23 BUILDINGS.**

24 (a) IN GENERAL.—Part VI of subchapter B of chap-
25 ter 1, as amended by section 404 of division A of the Tax

1 Relief and Health Care Act of 2006, is amended by insert-
2 ing after section 179E the following new section:

3 **SEC. 179F. ENERGY EFFICIENT LOW-RISE BUILDINGS DE-**
4 **DUCTION.**

5 “(a) IN GENERAL.—There shall be allowed as a de-
6 duction an amount equal to the amount of qualified energy
7 efficiency expenditures paid or incurred by the taxpayer
8 during the taxable year.

9 “(b) LIMITATIONS.—

10 “(1) IN GENERAL.—The amount allowed as a
11 credit under subsection (a) with respect to any
12 dwelling unit shall not exceed the product of—

13 “(A) the qualified energy savings achieved,
14 and

15 “(B) \$12,000.

16 “(2) MINIMUM AMOUNT OF QUALIFIED ENERGY
17 SAVINGS.—No credit shall be allowed under sub-
18 section (a) with respect to any dwelling unit in a
19 qualified low-rise building which achieves a qualified
20 energy savings of less than 20 percent.

21 “(c) QUALIFIED ENERGY EFFICIENCY EXPENDI-
22 TURES.—For purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified energy
24 efficiency expenditures’ means any amount paid or
25 incurred which is related to producing qualified en-

1 ergy savings in any dwelling unit located in a qual-
2 ified low-rise building of the taxpayer which is lo-
3 cated in the United States.

4 “(2) NO DOUBLE BENEFIT FOR CERTAIN EX-
5 PENDITURES.—The term ‘qualified energy efficiency
6 expenditures’ shall not include any expenditure for
7 any property for which a deduction has been allowed
8 to the taxpayer under section 179F.

9 “(3) QUALIFIED LOW-RISE BUILDING.—The
10 term ‘qualified low-rise building’ means a building—

11 “(A) with respect to which depreciation is
12 allowable under section 167,

13 “(B) which is used for multifamily hous-
14 ing, and

15 “(C) which is not within the scope of
16 Standard 90.1–2001 (as defined under section
17 179D(c)(2)).

18 “(d) QUALIFIED ENERGY SAVINGS.—For purposes of
19 this section—

20 “(1) IN GENERAL.—The term ‘qualified energy
21 savings’ means, with respect to any dwelling unit in
22 a qualified low-rise building, the amount (measured
23 as a percentage) by which—

24 “(A) the annual energy use with respect to
25 such dwelling unit after qualified energy effi-

1 ciency expenditures are made, as certified under
2 paragraph (2), is less than

3 “(B) the annual energy use with respect to
4 such dwelling unit before the qualified energy
5 efficiency expenditures were made, as certified
6 under paragraph (2).

7 In determining annual energy use under subparagraph (B), any energy efficiency improvements
8 which are not attributable to qualified energy efficiency expenditures shall be disregarded.

9
10 “(2) CERTIFICATION.—

11
12 “(A) IN GENERAL.—The Secretary, in con-
13 sultation with the Secretary of Energy, shall
14 prescribe the procedures and method for the
15 making of certifications under this paragraph
16 based on the Residential Energy Services Net-
17 work (RESNET) Technical Guidelines in effect
18 on the date of the enactment of this Act.

19
20 “(B) QUALIFIED INDIVIDUALS.—Any cer-
21 tification made under this paragraph may only
22 be made by an individual who is recognized by
23 an organization certified by the Secretary for
such purposes.

1 “(e) SPECIAL RULES.—For purposes of this section,
2 rules similar to the rules under paragraphs (8) and (9)
3 of section 25D(e) shall apply.

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

10 “(g) TERMINATION.—This section shall not apply
11 with respect to any property placed in service after Decem-
12 ber 31, 2011.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 263(a)(1), as amended by section
15 404 of division A of the Tax Relief and Health Care
16 Act of 2006, is amended by striking “or” at the
17 end of subparagraph (K), by striking the period at
18 the end of subparagraph (L) and inserting “, or”,
19 and by inserting after subparagraph (L) the fol-
20 lowing new subparagraph:

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

23 (2) Section 312(k)(3)(B) is amended by strik-
24 ing “179, 179A, 179B, 179C, 179D, or 179E” each
25 place it appears in the heading and text and insert-

1 ing “179, 179A, 179B, 179C, 179D, 179E, or
2 179F”.

8 “(39) to the extent provided in section
9 179F(f).”.

10 (4) Section 1245(a) is amended by inserting
11 “179F,” after “179E,” both places it appears in
12 paragraphs (2)(C) and (3)(C).

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

“Sec. 179F. Energy efficient low-rise buildings deduction.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to amounts paid or incurred in tax-
18 able years beginning after the date of the enactment of
19 this Act.

20 SEC. 204. ENERGY EFFICIENT PROPERTY DEDUCTION.

21 (a) IN GENERAL.—Part VI of subchapter B of chap-
22 ter 1, as amended by section 203, is amended by inserting
23 after section 179F the following new section:

1 **“SEC. 179G. ENERGY EFFICIENT PROPERTY.**

2 “(a) ALLOWANCE OF DEDUCTION.—There shall be
3 allowed as a deduction an amount equal to the energy effi-
4 cient property expenditures paid or incurred by the tax-
5 payer during the taxable year.

6 “(b) LIMITATION.—The amount of the deduction al-
7 lowed under subsection (a) for any taxable years shall not
8 exceed—

9 “(1) \$150 for any advanced main air circu-
10 lating fan,

11 “(2) \$450 for any qualified natural gas furnace
12 or qualified propane furnace,

13 “(3) \$900 for—

14 “(A) any item of energy-efficient building
15 property, and

16 “(B) any qualified oil furnace, qualified
17 natural gas hot water boiler, qualified propane
18 hot water boiler, or qualified oil hot water boil-
19 er,

20 “(4) \$9 with respect to each peak watt of ca-
21 pacity of solar electric property,

22 “(5) in the case of solar hot water property, an
23 amount equal to—

24 “(A) in the case of a dwelling unit which
25 uses electricity to heat water, \$1 with respect to

1 each kilowatt per year of savings of such solar
2 hot water property, or

3 “(B) in the case of a dwelling unit which
4 uses natural gas to heat water, \$21 with re-
5 spect to each annual Therm of natural gas sav-
6 ings of such solar hot water property.

7 For purposes of paragraph (5), savings shall be deter-
8 mined under regulations prescribed by the Secretary based
9 on the OG-300 Standard for the Annual Performance of
10 OG-300 Certified Systems of the Solar Rating and Cer-
11 tification Corporation.

12 “(c) ENERGY EFFICIENT PROPERTY EXPENDI-
13 TURES.—For purposes of this section—

14 “(1) IN GENERAL.—The term ‘energy efficient
15 property expenditures’ means expenditures paid by
16 the taxpayer for qualified energy property which is—

17 “(A) of a character subject to the allow-
18 ance for depreciation, and

19 “(B) originally placed in service by the tax-
20 payer.

21 “(2) QUALIFIED ENERGY PROPERTY.—

22 “(A) IN GENERAL.—The term ‘qualified
23 energy property’ has the meaning given such
24 term by section 25C(d)(2), except that such

1 term shall include solar electric property and
2 solar hot water property.

3 “(B) SOLAR ELECTRIC PROPERTY.—The
4 term ‘solar electric property’ means property
5 which uses solar energy to generate electricity.

6 “(C) SOLAR HOT WATER PROPERTY.—The
7 term ‘solar hot water property’ means property
8 used to heat water if at least half of the energy
9 used by such property for such purpose is de-
10 rived from the sun.

11 “(d) BASIS ADJUSTMENTS.—For purposes of this
12 subtitle, if a credit is allowed under this section with re-
13 spect to any expenditure with respect to any property, the
14 increase in the basis of such property which would (but
15 for this subsection) result from such expenditure shall be
16 reduced by the amount of the credit so allowed.

17 “(e) TERMINATION.—This section shall not apply
18 with respect to any property placed in service after Decem-
19 ber 31, 2010.”.

20 (b) NO DOUBLE BENEFIT.—Section 179D(c) is
21 amended by adding at the end the following new para-
22 graph:

23 “(3) CERTAIN PROPERTY EXCLUDED.—The
24 term ‘energy efficient commercial building property’
25 does not include any property with respect to which

1 a credit has been allowed to the taxpayer under sec-
2 tion 179G.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 263(a)(1), as amended by section
5 203, is amended by striking “or” at the end of sub-
6 paragraph (K), by striking the period at the end of
7 subparagraph (L) and inserting “, or”, and by in-
8 serting after subparagraph (L) the following new
9 subparagraph:

10 “(M) expenditures for which a deduction is
11 allowed under section 179G.”.

12 (2) Section 312(k)(3)(B), as amended by sec-
13 tion 203, is amended by striking “179, 179A, 179B,
14 179C, 179D, 179E, or 179F” each place it appears
15 in the heading and text and inserting “179, 179A,
16 179B, 179C, 179D, 179E, 179F, or 179G”.

17 (3) Section 1016(a), as amended by section
18 203, is amended by striking “and” at the end of
19 paragraph (38), by striking the period at the end of
20 paragraph (39) and inserting “, and”, and by add-
21 ing at the end the following new paragraph:

22 “(40) to the extent provided in section
23 179G(e).”.

“Sec. 179G. Energy efficient property.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service in
9 taxable years beginning after the date of the enactment
10 of this Act.

11 SEC. 205. EXTENSION OF INVESTMENT TAX CREDIT WITH
12 RESPECT TO SOLAR ENERGY PROPERTY AND
13 QUALIFIED FUEL CELL PROPERTY.

14 (a) SOLAR ENERGY PROPERTY.—Paragraphs
15 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a), as amended
16 by section 207 of division A of the Tax Relief and Health
17 Care Act of 2006, are each amended by striking “2009”
18 and inserting “2012”.

19 (b) ELIGIBLE FUEL CELL PROPERTY.—Paragraph
20 (1)(E) of section 48(c), as so amended, is amended by
21 striking “2008” and inserting “2011”.

1 **TITLE III—INCENTIVES FOR EN-**
2 **ERGY SAVINGS CERTIFI-**
3 **CATIONS**

4 **SEC. 301. CREDIT FOR ENERGY SAVINGS CERTIFICATIONS.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1, as amended by section 405 of divi-
7 sion A of the Tax Relief and Health Care Act of 2006,
8 is amended by adding at the end the following new section:

9 **“SEC. 450. ENERGY SAVINGS CERTIFICATION CREDIT.**

10 “(a) IN GENERAL.—For purposes of section 38, the
11 energy savings certification credit determined under this
12 section for any taxable year is an amount equal to the
13 sum of—

14 “(1) the qualified training and certification
15 costs paid or incurred by the taxpayer which may be
16 taken into account for such taxable year, plus

17 “(2) the qualified certification equipment ex-
18 penditures paid or incurred by the taxpayer which
19 may be taken into account for such taxable year.

20 “(b) **QUALIFIED TRAINING AND CERTIFICATION**
21 **COSTS.**—

22 “(1) IN GENERAL.—The term ‘qualified train-
23 ing and certification costs’ means costs paid or in-
24 curred for training which is required for the tax-
25 payer or employees of the taxpayer to be certified by

1 the Secretary under section 25D(d)(2)(B) or
2 179F(d)(2)(B) for the purpose of certifying energy
3 savings.

4 “(2) LIMITATION.—The qualified training and
5 certification costs taken into account under sub-
6 section (a)(1) for the taxable year with respect to
7 any individual shall not exceed \$500 reduced by the
8 amount of the credit allowed under subsection (a)(1)
9 to the taxpayer (or any predecessor) with respect to
10 such individual for all prior taxable years.

11 “(3) YEAR COSTS TAKEN INTO ACCOUNT.—
12 Qualified training and certifications costs with re-
13 spect to any individual shall not be taken into ac-
14 count under subsection (a)(1) before the taxable
15 year in which the individual with respect to whom
16 such costs are paid or incurred has performed 25
17 certifications under sections 25E(d)(2)(A) and
18 179F(d)(2)(A).

19 “(c) QUALIFIED CERTIFICATION EQUIPMENT EX-
20 PENDITURES.—

21 “(1) IN GENERAL.—The term ‘qualified train-
22 ing equipment expenditures’ means costs paid or in-
23 curred for—

24 “(A) blower doors,

25 “(B) duct leakage testing equipment,

1 “(C) flue gas combustion equipment, and
2 “(D) digital manometers.

3 “(2) LIMITATION.—

4 “(A) IN GENERAL.—The qualified certifi-
5 cation equipment expenditures taken into ac-
6 count under subsection (a)(2) with respect to
7 any taxpayer for any taxable year shall not ex-
8 ceed \$1,000.

9 “(B) LIMITATION ON INDIVIDUAL
10 ITEMS.—The qualified certification equipment
11 expenditures taken into account under sub-
12 section (a)(2) shall not exceed—

13 “(i) \$500 with respect to any blower
14 door or duct leakage testing equipment,
15 and

16 “(ii) \$100 with respect to any flue gas
17 combustion equipment or digital manom-
18 eter.

19 “(3) YEAR EXPENDITURES TAKEN INTO AC-
20 COUNT.—The qualified certification equipment ex-
21 penditures of any taxpayer shall not be taken into
22 account under subsection (a)(2) before the taxable
23 year in which the taxpayer has performed 25 certifi-
24 cations under sections 25E(d)(2)(A) and
25 179F(d)(2)(A).

1 “(d) SPECIAL RULES.—

2 “(1) AGGREGATION RULES.—For purposes of
3 this section, all persons treated as a single employer
4 under subsections (a) and (b) of section 52 shall be
5 treated as 1 person.

6 “(2) BASIS REDUCTION.—The basis of any
7 property shall be reduced by the portion of the cost
8 of such property taken into account under sub-
9 section (a).

10 “(3) DENIAL OF DOUBLE BENEFIT.—

11 “(A) IN GENERAL.—No deduction shall be
12 allowed for that portion of the expenses other-
13 wise allowable as a deduction for the taxable
14 year which is equal to the amount taken into
15 account under subsection (a) for such taxable
16 year.

17 “(B) AMOUNT PREVIOUSLY DEDUCTED.—
18 No credit shall be allowed under subsection (a)
19 with respect to any amount for which a deduc-
20 tion has been allowed in any preceding taxable
21 year.”.

22 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
23 NESS CREDIT.—Section 38(b) is amended by striking
24 “plus” at the end of paragraph (30), by striking the period

1 at the end of paragraph (31) and inserting “plus”, and
2 by adding at the end the following new paragraph:

3 “(32) the energy savings certification credit de-
4 termined under section 45O(a).”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 1016(a), as amended by this Act, is
7 amended by striking “and” at the end of paragraph
8 (39), by striking the period at the end of paragraph
9 (40) and inserting “and”, and by adding at the end
10 the following new paragraph:

11 “(41) to the extent provided in section
12 45O(d)(2).”.

13 (2) The table of sections for subpart D of part
14 IV of subchapter A of chapter 1 is amended by in-
15 serting after the item relating to section 45N the
16 following new item:

“Sec. 450. Energy savings certification credit.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to amounts paid or incurred after
19 the date of the enactment of this Act.

○