

110TH CONGRESS
1ST SESSION

S. 1370

To amend the Internal Revenue Code of 1986 to ensure more investment and innovation in clean energy technologies.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2007

Ms. CANTWELL (for herself, Mr. SMITH, and Mr. KERRY) 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 ensure more investment and innovation in clean energy technologies.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Clean Energy Investment Assurance Act of 2007”.

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

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

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

- Sec. 1. Short title; etc.
- Sec. 2. Expansion and modification of renewable electricity production credit.
- Sec. 3. Extension and expansion of credit to holders of clean renewable energy bonds.
- Sec. 4. Extension and modification of residential energy efficient property credit.
- Sec. 5. Extension and modification of energy credit.
- Sec. 6. Extension and modification of nonbusiness energy property credit.
- Sec. 7. Extension of new energy efficient home credit.
- Sec. 8. Extension and modification of deduction for energy efficient commercial buildings.
- Sec. 9. Five-year applicable recovery period for depreciation of qualified energy management devices.

5 **SEC. 2. EXPANSION AND MODIFICATION OF RENEWABLE**
 6 **ELECTRICITY PRODUCTION CREDIT.**

7 (a) CREDIT TO INCLUDE PRODUCTION OF THERMAL
 8 ENERGY.—

9 (1) IN GENERAL.—Section 45 is amended by
 10 adding at the end the following new subsection:

11 “(f) CREDIT FOR PRODUCTION OF THERMAL EN-
 12 ERGY.—

13 “(1) IN GENERAL.—In the case of a taxpayer
 14 who—

15 “(A) produces thermal energy from closed-
 16 loop biomass, open-loop biomass, or geothermal
 17 energy at a qualified facility, and

18 “(B) makes an election under this sub-
 19 section with respect to such facility,

1 subsection (a) shall be applied by substituting ‘each
2 3,413 Btus of thermal energy (or fraction thereof)’
3 for ‘the kilowatt hours of electricity’ in paragraph
4 (2) thereof.

5 “(2) DENIAL OF DOUBLE BENEFIT.—If an elec-
6 tion under this subsection is in effect with respect
7 to any facility, no credit shall be allowed under sub-
8 section (a) with respect to the production of elec-
9 tricity at such facility.

10 “(3) ELECTION.—

11 “(A) IN GENERAL.—An election under this
12 subsection shall specify the facility to which the
13 election applies and shall be in such manner as
14 the Secretary may by regulations prescribe.

15 “(B) ELECTION IRREVOCABLE.—Any elec-
16 tion made under this subsection may not be re-
17 voked except with the consent of the Sec-
18 retary.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Section 45(c)(2) is amended by insert-
21 ing “or thermal energy” after “electricity”.

22 (B) Section 45(d) is amended by inserting
23 “or thermal energy” after “electricity” each
24 place it appears in paragraphs (2), (3), and (4).

1 (C) Section 45(e) is amended by inserting
2 “or thermal energy” after “electricity” each
3 place it appears in paragraphs (1) and (4).

4 (D) The heading of section 45 is amended
5 by inserting “**AND THERMAL ENERGY**” after
6 “**ELECTRICITY**”.

7 (E) The item relating to section 45 in the
8 table of sections for subpart D of part IV of
9 subchapter A of chapter 1 is amended by in-
10 sserting “and thermal energy” after “Elec-
11 tricity”.

12 (b) EXTENSION.—Paragraphs (1), (2), (3), (4), (5),
13 (6), (7), and (9) of section 45(d) (relating to qualified fa-
14 cilities) is amended by striking “January 1, 2009” each
15 place it appears and inserting “January 1, 2014”.

16 (c) CREDIT ALLOWED FOR ZERO-CARBON EMISSIONS
17 RESOURCE FACILITIES.—

18 (1) IN GENERAL.—Section 45(c)(1) (defining
19 qualified energy resources) is amended by striking
20 “and” at the end of subparagraph (G), by striking
21 the period at the end of subparagraph (H) and in-
22 sserting “, and”, and by adding at the end the fol-
23 lowing new subparagraph:

24 “(I) zero-carbon emissions resources.”.

1 (2) DEFINITION OF RESOURCES.—Section 45(c)
2 is amended by adding at the end the following new
3 paragraph:

4 “(10) ZERO-CARBON EMISSIONS RESOURCE.—
5 The term ‘zero-carbon emission resource’ means any
6 resource—

7 “(A) not described in paragraphs (2)
8 through (9),

9 “(B) from which electricity can be pro-
10 duced without producing carbon emissions, and

11 “(C) which is approved by the Secretary.”.

12 (3) FACILITIES.—Section 45(d) is amended by
13 adding at the end the following new paragraph:

14 “(11) ZERO-CARBON EMISSIONS RESOURCE FA-
15 CILITY.—In the case of a facility using a zero-carbon
16 emissions resource to produce electricity, the term
17 ‘qualified facility’ means any facility owned by the
18 taxpayer which is originally placed in service after
19 the date of the enactment of this paragraph and be-
20 fore January 1, 2014.”.

21 (d) REPEAL OF REDUCTION FOR GRANTS, TAX-EX-
22 EMPT BONDS, SUBSIDIZED ENERGY FINANCING, ETC.—
23 Subsection (b) of section 45 is amended by striking para-
24 graph (3) and by redesignating paragraph (4) as para-
25 graph (3).

1 (e) ELIMINATION OF REDUCED CREDIT RATE FOR
2 ELECTRICITY PRODUCED AND SOLD FROM CERTAIN FA-
3 CILITIES.—Paragraph (3) of section 45(b), as redesi-
4 gated by subsection (d), is amended to read as follows:

5 “(3) CREDIT PERIOD FOR ELECTRICITY PRO-
6 DUCED AND SOLD FROM CERTAIN FACILITIES.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B) or subparagraph (C), in the
9 case of any facility described in paragraph (3),
10 (4), (5), (6), or (7) of subsection (d), the 5-year
11 period beginning on the date the facility was
12 originally placed in service shall be substituted
13 for the 10-year period in subsection
14 (a)(2)(A)(ii).

15 “(B) CERTAIN OPEN-LOOP BIOMASS FA-
16 CILITIES.—In the case of any facility described
17 in subsection (d)(3)(A)(ii) placed in service be-
18 fore October 22, 2004, the 5-year period begin-
19 ning on January 1, 2005, shall be substituted
20 for the 10-year period in subsection
21 (a)(2)(A)(ii).

22 “(C) TERMINATION.—Subparagraph (A)
23 shall not apply to any facility placed in service
24 after August 8, 2005.”

1 (f) MODIFICATION OF DEFINITION OF CLOSED-LOOP
 2 BIOMASS.—Paragraph (2) of section 45(c), as amended
 3 by subsection (a)(2)(A), is amended by adding at the end
 4 the following new sentence: “For purposes of the pre-
 5 ceding sentence, a plant shall not fail to be considered as
 6 having been planted exclusively for purposes of being used
 7 at a qualified facility to produce electricity or thermal en-
 8 ergy solely because any portion of such plant is used to
 9 produce alcohol (as defined in section 40(d)(1)), biodiesel
 10 (as defined in section 40A(d)(1)), or a fuel described in
 11 section 6426(d)(2)(F).”.

12 (g) MODIFICATION TO QUALIFIED HYDROPOWER FA-
 13 CILITIES.—

14 (1) NONHYDROELECTRIC DAMS.—Clause (iii) of
 15 section 45(c)(8)(C) is amended to read as follows:

16 “(iii) turbines or other generating de-
 17 vices are to be added to the facility after
 18 such date to produce hydroelectric power,
 19 but only if any enlargement of the diver-
 20 sion structure, or construction or enlarge-
 21 ment of a bypass channel, is completed in
 22 compliance with the Federal Energy Regu-
 23 latory Commission license of the facility
 24 and there is no additional impoundment or

1 any withholding of any additional water
2 from the natural stream channel.”.

3 (2) QUALIFIED HYDROPOWER FACILITY.—Para-
4 graph (9) of section 45(d), as amended by sub-
5 section (b), is amended to read as follows:

6 “(9) QUALIFIED HYDROPOWER FACILITY.—

7 “(A) IN GENERAL.—In the case of a facil-
8 ity producing qualified hydroelectric production
9 described in subsection (c)(8), the term ‘quali-
10 fied facility’ means—

11 “(i) in the case of any facility pro-
12 ducing incremental hydropower production,
13 such facility but only to the extent of its
14 incremental hydropower production attrib-
15 utable to efficiency improvements or addi-
16 tions of capacity described in subsection
17 (c)(8)(B) placed in service after August 8,
18 2005, and before January 1, 2014, and

19 “(ii) any other facility placed in serv-
20 ice after August 8, 2005, and before Janu-
21 ary 1, 2014.

22 “(B) CREDIT PERIOD.—In the case of a
23 qualified facility described in subparagraph
24 (A)(i), the 10-year period referred to in sub-
25 section (a) shall be treated as beginning on the

1 date the efficiency improvements or additions of
2 capacity are placed in service.”.

3 (h) REPEAL OF NETTING RULE FOR SIMULTANEOUS
4 SALES AND PURCHASES OF ELECTRICITY PRODUCED
5 FROM OPEN-LOOP BIOMASS.—Subsection (e) of section
6 45 is amended by adding at the end the following new
7 paragraph:

8 “(12) SPECIAL RULE RELATING TO SIMULTA-
9 NEOUS SALE AND PURCHASE OF ELECTRICITY PRO-
10 DUCED FROM OPEN-LOOP BIOMASS.—Electricity or
11 thermal energy produced from open-loop biomass by
12 the taxpayer at any location and sold to an unre-
13 lated party shall be taken into account under sub-
14 section (a) notwithstanding whether such taxpayer
15 simultaneously purchased electricity or thermal en-
16 ergy from an unrelated person for use at the same
17 location.”.

18 (i) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), the amendments made by this section
21 shall apply to electricity and thermal energy pro-
22 duced and sold after the date of the enactment of
23 this Act, in taxable years ending after such date.

24 (2) SUBSECTION (c).—The amendment made
25 by subsection (c) shall apply to electricity produced

1 and sold after December 31, 2008, in taxable years
2 ending after such date.

3 **SEC. 3. EXTENSION AND EXPANSION OF CREDIT TO HOLD-**
4 **ERS OF CLEAN RENEWABLE ENERGY BONDS.**

5 (a) **EXTENSION.**—Section 54(m) (relating to termi-
6 nation) is amended by striking “2008” and inserting
7 “2013”.

8 (b) **ANNUAL VOLUME CAP FOR BONDS ISSUED DUR-**
9 **ING EXTENSION PERIOD.**—Paragraph (1) of section 54(f)
10 (relating to limitation on amount of bonds designated) is
11 amended to read as follows:

12 “(1) **NATIONAL LIMITATION.**—

13 “(A) **INITIAL NATIONAL LIMITATION.**—

14 With respect to bonds issued after December
15 31, 2005, and before January 1, 2009, there is
16 a national clean renewable energy bond limita-
17 tion of \$1,200,000,000.

18 “(B) **ANNUAL NATIONAL LIMITATION.**—

19 With respect to bonds issued after December
20 31, 2008, and before January 1, 2014, there is
21 a national clean renewable energy bond limita-
22 tion for each calendar year of
23 \$5,000,000,000.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to bonds issued after December
3 31, 2007.

4 **SEC. 4. EXTENSION AND MODIFICATION OF RESIDENTIAL**
5 **ENERGY EFFICIENT PROPERTY CREDIT.**

6 (a) EXTENSION.—Subsection (g) of section 25D (re-
7 lating to termination) is amended by striking “December
8 31, 2008” and inserting “December 31, 2016”.

9 (b) SOLAR ELECTRIC PROPERTY.—Paragraph (1) of
10 section 25D(a) is amended by striking “30 percent of”.

11 (c) INCLUSION OF ENERGY STORAGE AIR CONDI-
12 TIONER PROPERTY.—

13 (1) IN GENERAL.—Subsection (a) of section
14 25D is amended by striking “and” at the end of
15 paragraph (2), by striking the period at the end of
16 paragraph (3) and inserting “, and”, and by adding
17 at the end the following new paragraph:

18 “(4) 30 percent of the qualified energy storage
19 air conditioner property expenditures made by the
20 taxpayer during such year.”.

21 (2) QUALIFIED ENERGY STORAGE AIR CONDI-
22 TIONER PROPERTY EXPENDITURE.—Section 25D(d)
23 is amended by adding at the end the following new
24 paragraph:

1 “(4) QUALIFIED ENERGY STORAGE AIR CONDI-
 2 TIONER PROPERTY EXPENDITURE.—The term
 3 ‘qualified energy storage air conditioner property ex-
 4 penditure’ means an expenditure for qualified energy
 5 storage air conditioner property (as defined in sec-
 6 tion 48(d)) installed on or in connection with a
 7 dwelling unit located in the United States and used
 8 as a principal residence (within the meaning of sec-
 9 tion 121) by the taxpayer.”.

10 (d) MODIFICATION OF MAXIMUM CREDIT.—

11 (1) IN GENERAL.—Paragraph (1) of section
 12 25D(b) is amended to read as follows:

13 “(1) MAXIMUM CREDIT.—The credit allowed
 14 under subsection (a) for any taxable year shall not
 15 exceed—

16 “(A) \$1,500 with respect to each half kilo-
 17 watt of direct current of installed capacity of
 18 qualified solar electric property for which quali-
 19 fied solar electric property expenditures are
 20 made,

21 “(B) \$2,000 with respect to any qualified
 22 solar heating and cooling property expenditures,

23 “(C) \$500 with respect to each half kilo-
 24 watt of capacity of qualified fuel cell property
 25 (as defined in section 48(e)(1)) for which quali-

1 fied fuel cell property expenditures are made,
2 and

3 “(D) \$500 with respect to each half kilo-
4 watt hour of peak reduction of qualified energy
5 storage air conditioner property (as defined in
6 section 48(d)) for which qualified energy stor-
7 age air conditioner expenditures are made.”.

8 (2) CONFORMING AMENDMENTS.—Section
9 25D(e)(4)(A) is amended—

10 (A) by striking “\$6,667 in the case of any
11 qualified solar electric property expenditures”
12 in clause (i) and inserting “\$5,000 in the case
13 of each half kilowatt of direct current of in-
14 stalled capacity of qualified solar electric prop-
15 erty for which qualified electric solar property
16 expenditures are made”,

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

19 (C) by striking the period at the end of
20 clause (iii) and inserting “, and”, and

21 (D) by adding at the end the following new
22 clause:

23 “(iv) \$1,667 in the case of each half
24 kilowatt hour of peak reduction of qualified
25 energy storage air conditioner property (as

1 defined in section 48(d)) for which quali-
2 fied energy storage air conditioner expendi-
3 tures are made.”.

4 (e) DEFINITION OF QUALIFIED SOLAR HEATING AND
5 COOLING PROPERTY EXPENDITURE.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 25D(d) is amended to read as follows:

8 “(1) QUALIFIED SOLAR HEATING AND COOLING
9 PROPERTY EXPENDITURE.—The term ‘qualified
10 solar heating and cooling property expenditure’
11 means an expenditure for property to heat or cool
12 (or provide hot water for use in) a dwelling unit lo-
13 cated in the United States and used as a residence
14 by the taxpayer if at least half of the energy used
15 by such property for such purpose is derived from
16 the sun. Such term shall not include an expenditure
17 which is a qualified solar electric property expendi-
18 ture.”.

19 (2) CONFORMING AMENDMENTS.—Subsections
20 (a)(2) and (e)(4)(A)(ii) of section 25D are each
21 amended by striking “qualified solar water heating”
22 and inserting “qualified solar heating and cooling”

23 (f) DEFINITION OF QUALIFIED PHOTOVOLTAIC
24 PROPERTY EXPENDITURE.—Paragraph (2) of section
25 25D(d) is amended by inserting “, including advanced en-

1 energy storage systems installed as an integrated component
2 of the foregoing” after “taxpayer”.

3 (g) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
4 IMUM TAX.—

5 (1) IN GENERAL.—Section 25D(b) is amended
6 by adding at the end the following new paragraph:

7 “(3) CREDIT ALLOWED AGAINST ALTERNATIVE
8 MINIMUM TAX.—The credit allowed under subsection
9 (a) for the taxable year shall not exceed the excess
10 of—

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

14 “(B) the sum of the credits allowable
15 under subpart A of part IV of subchapter A
16 (other than this section) and section 27 for the
17 taxable year.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Subsection (c) of section 25D is
20 amended to read as follows:

21 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
22 credit allowable under subsection (a) for any taxable year
23 exceeds the limitation imposed by subsection (b)(3) for
24 such taxable year, such excess shall be carried to the suc-

1 ceeding taxable year and added to the credit allowable
2 under subsection (a) for such succeeding taxable year.”.

3 (B) Section 23(b)(4)(B) is amended by in-
4 serting “and section 25D” after “this section”.

5 (C) Section 24(b)(3)(B) is amended by
6 striking “sections 23 and 25B” and inserting
7 “sections 23, 25B, and 25D”.

8 (D) Section 26(a)(1) is amended by strik-
9 ing “and 25B” and inserting “25B, and 25D”.

10 (h) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to expenditures made in taxable
12 years beginning after December 31, 2006.

13 **SEC. 5. EXTENSION AND MODIFICATION OF ENERGY CRED-**

14 **IT.**

15 (a) SOLAR PROPERTY.—

16 (1) EXTENSION.—Paragraphs (2)(A)(i)(II) and
17 (3)(A)(ii) of section 48(a) are each amended by
18 striking “2009” and inserting “2017”.

19 (2) SOLAR PHOTOVOLTAIC ENERGY PROPERTY
20 CREDIT DETERMINED SOLELY BY KILOWATT CAPAC-
21 ITY.—

22 (A) IN GENERAL.—Subsection (a) of sec-
23 tion 48 is amended by redesignating paragraph
24 (4) as paragraph (5) and by inserting after
25 paragraph (3) the following new paragraph:

1 “(4) SPECIAL RULE FOR ENERGY CREDIT FOR
2 SOLAR PHOTOVOLTAIC ENERGY PROPERTY.—

3 “(A) IN GENERAL.—For purposes of sec-
4 tion 46, the energy credit for any taxable year
5 for solar photovoltaic energy property described
6 in paragraph (3)(A)(i) which is used to gen-
7 erate electricity and which is placed in service
8 during the taxable year shall not exceed \$1,500
9 with respect to each half kilowatt of direct cur-
10 rent of installed capacity of such property.
11 Paragraph (2)(A)(ii) shall not apply to property
12 to which the preceding sentence applies.

13 “(B) APPLICATION OF SPECIAL RULES FOR
14 REHABILITATED OR SUBSIDIZED PROPERTY.—
15 Rules similar to the rules of paragraphs (2)(B)
16 and (5) shall apply to property to which this
17 paragraph applies.”.

18 (B) CONFORMING AMENDMENT.—Sub-
19 clause (II) of section 48(a)(2)(A)(i) is amended
20 by striking “described in paragraph (3)(A)(i)”
21 and inserting “which is described in paragraph
22 (3)(A)(i) and to which paragraph (4) does not
23 apply”.

24 (b) QUALIFIED FUEL CELL PROPERTY.—

1 (1) EXTENSION.—Subparagraph (E) of section
2 48(c)(1) is amended by striking “2008” and insert-
3 ing “2016”.

4 (2) REPEAL OF LIMITATION.—Paragraph (1) of
5 section 48(c), as amended by paragraph (1), is
6 amended by striking subparagraph (B) and by re-
7 designating subparagraphs (C), (D), and (E) as sub-
8 paragraphs (B), (C), and (D), respectively.

9 (c) ENERGY CREDIT ALLOWED FOR ENERGY STOR-
10 AGE AIR CONDITIONER PROPERTY.—

11 (1) IN GENERAL.—Clause (i) of section
12 48(a)(2)(A) is amended by striking “and” at the end
13 of subclause (II) and by inserting after subclause
14 (III) the following new subclause:

15 “(IV) qualified energy storage air
16 conditioner property, and”.

17 (2) QUALIFIED ENERGY STORAGE AIR CONDI-
18 TIONER PROPERTY.—Section 48 is amended by add-
19 ing at the end the following new subsection:

20 “(d) QUALIFIED ENERGY STORAGE AIR CONDI-
21 TIONER PROPERTY.—For the purposes of this section—

22 “(1) IN GENERAL.—The term ‘qualified energy
23 storage air conditioner property’ means a cooling
24 system consisting of components which create, store,
25 and supply cooling energy to reduce peak electricity

1 demand by displacing the electrical demand of con-
2 ventional mechanical cooling equipment, and all sec-
3 ondary components to integrate with the conven-
4 tional cooling system, including equipment and con-
5 trols for operation and performance measuring and
6 reporting, provided that such cooling system—

7 “(A) has a nameplate operational capa-
8 bility to deliver a minimum of 36,000 Btu and
9 maximum of 120,000 Btu of cooling capacity
10 for a minimum continuous period of 4 hours,
11 available daily from May 1 through September
12 30 coincident with local utility designated peak
13 load periods,

14 “(B) is designed so as to reduce kilowatt
15 demand by 90 percent for the cooling load
16 served, and

17 “(C) is designed so as not to exceed the 24
18 hour energy consumption of conventional cool-
19 ing equipment.

20 “(2) LIMITATION.—In the case of qualified en-
21 ergy storage air conditioning property placed in serv-
22 ice during the taxable year, the credit otherwise de-
23 termined under this section for such year with re-
24 spect to such property shall not exceed an amount

1 equal to \$500 for each 0.5 kilowatt of peak reduc-
2 tion capacity of such property.

3 “(3) TERMINATION.—The term ‘energy storage
4 air conditioner property’ shall not include any prop-
5 erty for any period after January 1, 2016.”.

6 (d) REPEAL OF PUBLIC UTILITY PROPERTY EXCLU-
7 SION.—

8 (1) IN GENERAL.—Paragraph (3) of section
9 48(a) is amended by striking the first sentence
10 which follows subparagraph (D).

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 48(c)(1), as amended by sub-
13 section (b), is amended by striking subpara-
14 graph (C) and by redesignating subparagraph
15 (D) as subparagraph (C).

16 (B) Section 48(c)(2) is amended by strik-
17 ing subparagraph (D) and by redesignating
18 subparagraph (E) as subparagraph (D).

19 (e) CREDITS ALLOWED AGAINST THE ALTERNATIVE
20 MINIMUM TAX.—Section 38(c)(4)(B) is amended by strik-
21 ing “and” at the end of clause (i), by striking the period
22 at the end of clause (ii)(II) and inserting “, and”, and
23 by adding at the end the following new clause:

1 “(iii) the portion of the investment
2 credit under section 46 which is deter-
3 mined under section 48(a).”.

4 (f) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to taxable years beginning after the date
8 of the enactment of this Act.

9 (2) REPEAL OF PUBLIC UTILITY PROPERTY EX-
10 CLUSION.—The amendments made by subsection (d)
11 shall apply to periods after December 31, 2006, in
12 taxable years ending after such date, under rules
13 similar to the rules of section 48(m) of the Internal
14 Revenue Code of 1986 (as in effect on the day be-
15 fore the date of the enactment of the Revenue Rec-
16 onciliation Act of 1990).

17 **SEC. 6. EXTENSION AND MODIFICATION OF NONBUSINESS**
18 **ENERGY PROPERTY CREDIT.**

19 (a) IN GENERAL.—Subsection (g) of section 25C (re-
20 lating to termination) is amended by striking “2007” and
21 inserting “2012”.

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

1 “The amount taken into account under subsection
 2 (a)(1) with respect to qualified energy efficiency im-
 3 provements shall include expenditures for labor costs
 4 properly allocable to the onsite preparation, assem-
 5 bly, or original installation of any component de-
 6 scribed in this paragraph.”.

7 (c) MODIFICATIONS FOR RESIDENTIAL ENERGY EF-
 8 FICIENCY PROPERTY EXPENDITURES.—

9 (1) INCREASED LIMITATION FOR OIL FURNACES
 10 AND NATURAL GAS, PROPANE, AND OIL HOT WATER
 11 BOILERS.—

12 (A) IN GENERAL.—Subparagraphs (B) and
 13 (C) of section 25C(b)(3) are amended to read
 14 as follows:

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

17 “(C) \$300 for—

18 “(i) any item of energy-efficient build-
 19 ing property, and

20 “(ii) any qualified oil furnace, quali-
 21 fied natural gas hot water boiler, qualified
 22 propane hot water boiler, or qualified oil
 23 hot water boiler.”.

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

4 “(ii) any qualified natural gas fur-
5 nace, qualified propane furnace, qualified
6 oil furnace, qualified natural gas hot water
7 boiler, qualified propane hot water boiler,
8 or qualified oil hot water boiler, or”.

9 (2) MODIFICATIONS OF STANDARDS FOR EN-
10 ERGY-EFFICIENT BUILDING PROPERTY.—

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

14 “(A) an electric heat pump which achieves
15 the highest efficiency tier established by the
16 Consortium for Energy Efficiency, as in effect
17 on January 1, 2008.”.

18 (B) CENTRAL AIR CONDITIONERS.—Sec-
19 tion 25C(d)(3)(D) is amended by striking
20 “2006” and inserting “2008”.

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

23 “(E) a natural gas, propane, or oil water
24 heater which has either an energy factor of at

1 least 0.80 or a thermal efficiency of at least 90
2 percent.”.

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

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

8 “(A) QUALIFIED NATURAL GAS FUR-
9 NACE.—The term ‘qualified natural gas fur-
10 nace’ means any natural gas furnace which
11 achieves an annual fuel utilization efficiency
12 rate of not less than 95.

13 “(B) QUALIFIED NATURAL GAS HOT
14 WATER BOILER.—The term ‘qualified natural
15 gas hot water boiler’ means any natural gas hot
16 water boiler which achieves an annual fuel utili-
17 zation efficiency rate of not less than 90.

18 “(C) QUALIFIED PROPANE FURNACE.—
19 The term ‘qualified propane furnace’ means any
20 propane furnace which achieves an annual fuel
21 utilization efficiency rate of not less than 95.

22 “(D) QUALIFIED PROPANE HOT WATER
23 BOILER.—The term ‘qualified propane hot
24 water boiler’ means any propane hot water boil-

1 er which achieves an annual fuel utilization effi-
2 ciency rate of not less than 90.

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

7 “(F) QUALIFIED OIL HOT WATER BOIL-
8 ER.—The term ‘qualified oil hot water boiler’
9 means any oil hot water boiler which achieves
10 an annual fuel utilization efficiency rate of not
11 less than 90.”.

12 (3) ELIMINATION OF LIFETIME LIMITATION.—
13 Paragraph (1) of section 25C(b) is amended by in-
14 serting “by reason of subsection (a)(1)” after
15 “under this section”.

16 (d) MODIFICATION OF QUALIFIED ENERGY EFFI-
17 CIENCY IMPROVEMENTS.—

18 (1) IN GENERAL.—Paragraph (1) of section
19 25C(e) is amended by inserting “, or an asphalt roof
20 with appropriate cooling granules,” before “which
21 meet the Energy Star program requirements”.

22 (2) BUILDING ENVELOPE COMPONENT.—Sub-
23 paragraph (D) of section 25C(e)(2) is amended—

24 (A) by inserting “or asphalt roof” after
25 “metal roof”, and

1 (B) by inserting “or cooling granules”
2 after “pigmented coatings”.

3 (e) NATURAL GAS FIRED HEAT PUMPS.—Section
4 25C(d)(3), as amended by this section, is amended by
5 striking “and” at the end of subparagraph (D), by strik-
6 ing the period at the end of subparagraph (E) and insert-
7 ing “, and”, and by adding at the end the following new
8 subparagraph:

9 “(F) a natural gas fired heat pump with a
10 heating coefficient of performance (COP) of at
11 least 1.1.”.

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

14 (1) IN GENERAL.—Subsection (a) of section
15 25C is amended to read as follows:

16 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
17 dividual, there shall be allowed as a credit against the tax
18 imposed by this chapter for the taxable year an amount
19 equal to the amount of residential energy property expend-
20 itures paid or incurred by the taxpayer during the taxable
21 year.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 25C(b), as amended by sub-
24 section (b), is amended by striking paragraphs

1 (1) and (2) and by redesignating paragraph (3)
2 as paragraph (1).

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

6 (C) Section 25C is amended by striking
7 subsection (c).

8 (g) CLARIFICATION OF ELIGIBILITY OF STANDARDS
9 FOR QUALIFIED ENERGY PROPERTY.—Section
10 25C(d)(2)(C) is amended by striking “and” at the end of
11 clause (i), by striking the period at the end of clause (ii)
12 and inserting “, and”, and by adding at the end the fol-
13 lowing new clause:

14 “(iii) shall allow for the testing of
15 products regardless of the size or capacity
16 of the product.”.

17 (h) EFFECTIVE DATES.—

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

22 (2) STANDARDS FOR ELECTRIC HEAT PUMPS
23 AND CENTRAL AIR CONDITIONERS.—The amend-
24 ments made by subparagraphs (A) and (B) sub-

1 section (c)(2) shall apply to property placed in serv-
2 ice after December 31, 2007.

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

7 **SEC. 7. EXTENSION OF NEW ENERGY EFFICIENT HOME**
8 **CREDIT.**

9 (a) IN GENERAL.—Subsection (g) of section 45L (re-
10 lating to termination) is amended by striking “2008” and
11 inserting “2013”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply for qualified new energy efficient
14 homes acquired after the date of the enactment of this
15 Act, in taxable years ending after such date.

16 **SEC. 8. EXTENSION AND MODIFICATION OF DEDUCTION**
17 **FOR ENERGY EFFICIENT COMMERCIAL**
18 **BUILDINGS.**

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

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

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

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

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

7 (b) INCREASE IN MAXIMUM AMOUNT OF DEDUC-
8 TION.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 179D(b)(1) is amended by striking “\$1.80” and in-
11 serting “\$2.25”.

12 (2) PARTIAL ALLOWANCE.—Paragraph (1) of
13 section 179D(d) is amended—

14 (A) by striking “\$.60” and inserting
15 “\$0.75”, and

16 (B) by striking “\$1.80” and inserting
17 “\$2.25”.

18 (c) MODIFICATIONS TO CERTAIN SPECIAL RULES.—

19 (1) METHODS OF CALCULATING ENERGY SAV-
20 INGS.—

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

23 (i) by striking “based on” and insert-
24 ing “in accordance with”,

1 (ii) by inserting “, except as necessary
2 to carry out the requirements of this sec-
3 tion, to accommodate a reference to Stand-
4 ard 90.1–2001, to extend the applicability
5 of such manual to national conditions, or
6 to update technical standards based on
7 new information” before the period at the
8 end, and

9 (iii) by adding at the end the fol-
10 lowing new sentence: “The calculation
11 methods contained in such regulations
12 shall also provide for the calculation of ap-
13 propriate energy savings for design meth-
14 ods and technologies not otherwise credited
15 in such manual or standard, including en-
16 ergy savings associated with natural ven-
17 tilation, evaporative cooling, automatic
18 lighting controls (such as occupancy sen-
19 sors, photocells, and timeclocks),
20 daylighting, designs utilizing semi-condi-
21 tioned spaces which maintain adequate
22 comfort conditions without air conditioning
23 or without heating, improved fan system
24 efficiency (including reductions in static
25 pressure), advanced unloading mechanisms

1 for mechanical cooling (such as multiple or
2 variable speed compressors), on-site gen-
3 eration of electricity (including combined
4 heat and power systems, fuel cells, and re-
5 newable energy generation such as solar
6 energy), and wiring with lower energy
7 losses than wiring satisfying Standard
8 90.1–2001 requirements for building power
9 distribution systems.”.

10 (B) REQUIREMENTS FOR COMPUTER SOFT-
11 WARE USED IN CALCULATING ENERGY AND
12 POWER CONSUMPTION COSTS.—Paragraph
13 (3)(B) of section 179D(d) is amended by strik-
14 ing “and” at the end of clause (ii), by striking
15 the period at the end of clause (iii) and insert-
16 ing “, and”, and by adding at the end the fol-
17 lowing:

18 “(iv) which automatically—

19 “(I) generates the features, en-
20 ergy use, and energy and power con-
21 sumption costs of a reference building
22 which meets Standard 90.1–2001,

23 “(II) generates the features, en-
24 ergy use, and energy and power con-
25 sumption costs of a compliant build-

1 ing or system which reduces the an-
 2 nual energy and power costs by 50
 3 percent compared to Standard 90.1–
 4 2001, and

5 “(III) compares such features,
 6 energy use, and consumption costs to
 7 the features, energy use, and con-
 8 sumption costs of the building or sys-
 9 tem with respect to which the calcula-
 10 tion is being made.”.

11 (2) TARGETS FOR PARTIAL ALLOWANCE OF
 12 CREDIT.—Paragraph (1)(B) of section 179D(d) is
 13 amended—

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

16 “(i) IN GENERAL.—The Secretary”,
 17 and

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

19 “(ii) ADDITIONAL REQUIREMENTS.—
 20 For purposes of clause (i)—

21 “(I) the Secretary shall deter-
 22 mine prescriptive criteria that can be
 23 modeled explicitly for reference build-
 24 ings which meet the requirements of

1 subsection (c)(1)(D) for different
2 building types and regions,

3 “(II) a system may be certified
4 as meeting the target under subpara-
5 graph (A)(ii) if the appropriate ref-
6 erence building either meets the re-
7 quirements of subsection (c)(1)(D)
8 with such system rather than the
9 comparable reference system (using
10 the calculation under paragraph (2))
11 or meets the relevant prescriptive cri-
12 teria under subclause (I), and

13 “(III) the lighting system target
14 shall be based on lighting power den-
15 sity, except that it shall allow lighting
16 controls credits that trade off for
17 lighting power density savings based
18 on Section 3.2.2 of the 2005 Cali-
19 fornia Nonresidential Alternative Cal-
20 culation Method Approval Manual.

21 “(iii) PUBLICATION.—The Secretary
22 shall publish in the Federal Register the
23 bases for the target levels established in
24 the regulations under clause (i).”.

1 (d) ALTERNATIVE STANDARDS.—Section 179D(d) is
2 amended by adding at the end the following new para-
3 graph:

4 “(7) ALTERNATIVE STANDARDS PENDING
5 FINAL REGULATIONS.—Until such time as the Sec-
6 retary issues final regulations under paragraph
7 (1)(B)—

8 “(A) in the case of property which is part
9 of a building envelope, the building envelope
10 system target under paragraph (1)(A)(ii) shall
11 be a 7 percent reduction in total annual energy
12 and power costs (determined in the same man-
13 ner as under subsection (c)(1)(D)), and

14 “(B) in the case of property which is part
15 of the heating, cooling, ventilation, and hot
16 water systems, the heating, cooling, ventilation,
17 and hot water system shall be treated as meet-
18 ing the target under paragraph (1)(A)(ii) if it
19 would meet the requirement in subsection
20 (c)(1)(D) if combined with a building envelope
21 system and lighting system which met their re-
22 spective targets under paragraph(1)(A)(ii) (in-
23 cluding interim targets in effect under sub-
24 sections (f) and subparagraph (A)).”.

25 (e) MODIFICATIONS TO LIGHTING STANDARDS.—

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

4 (A) striking “INTERIM” in the heading and
5 inserting “ALTERNATIVE”, and

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

10 (2) QUALIFIED INDIVIDUALS.—Section
11 179D(d)(6)(C) is amended by adding at the end the
12 following: “For purposes of certification of whether
13 the alternative target for lighting systems under
14 subsection (f) is met, individuals qualified to deter-
15 mine compliance shall include individuals who are
16 certified as Lighting Certified (LC) by the National
17 Council on Qualifications for the Lighting Profes-
18 sions, Certified Energy Managers (CEM) by the As-
19 sociation of Energy Engineers, and LEED Accred-
20 ited Professionals (AP) by the U.S. Green Buildings
21 Council.”.

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

1 “(3) APPLICATION OF SUBSECTION TO BILEVEL
2 SWITCHING.—

3 “(A) IN GENERAL.—Notwithstanding para-
4 graph (2)(C)(i), this subsection shall apply to a
5 system which does not include provisions for
6 bilevel switching if the reduction in lighting
7 power density is at least 37.5 percent of the
8 minimum requirements in Table 9.3.1.1 or
9 Table 9.3.1.2. (not including additional interior
10 lighting allowances) of Standard 90.1–2001.

11 “(B) REDUCTION IN DEDUCTION.—In the
12 case of a system to which this subsection ap-
13 plies by reason of subparagraph (A), paragraph
14 (2) shall be applied—

15 “(i) by substituting ‘50 percent’ for
16 ‘40 percent’ in subparagraph (A) thereof,
17 and

18 “(ii) in subparagraph (B)(ii) there-
19 of—

20 “(I) by substituting ‘37.5 per-
21 centage points’ for ‘25 percentage
22 points’, and

23 “(II) by substituting ‘12.5’ for
24 ‘15’.”.

1 (f) PUBLIC PROPERTY.—Paragraph (4) of section
2 179(d) is amended by striking “the Secretary shall pro-
3 mulgate a regulation to allow the allocation of the deduc-
4 tion” and inserting “the deduction under this section shall
5 be allowed”.

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

10 **SEC. 9. FIVE-YEAR APPLICABLE RECOVERY PERIOD FOR**
11 **DEPRECIATION OF QUALIFIED ENERGY MAN-**
12 **AGEMENT DEVICES.**

13 (a) IN GENERAL.—Section 168(e)(3)(B) (defining 5-
14 year property) is amended by striking “and” at the end
15 of clause (v), by striking the period at the end of clause
16 (vi)(III) and inserting “, and”, and by inserting after
17 clause (vi) the following new clause:

18 “(vii) any qualified energy manage-
19 ment device.”.

20 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-
21 MENT DEVICE.—Section 168(i) (relating to definitions
22 and special rules) is amended by inserting at the end the
23 following new paragraph:

24 “(18) QUALIFIED ENERGY MANAGEMENT DE-
25 VICE.—

1 “(A) IN GENERAL.—The term ‘qualified
2 energy management device’ means any energy
3 management device which is placed in service
4 before January 1, 2012, by a taxpayer who is
5 a supplier of electric energy or a provider of
6 electric energy services.

7 “(B) ENERGY MANAGEMENT DEVICE.—
8 For purposes of subparagraph (A), the term
9 ‘energy management device’ means any two-way
10 communications network and associated equip-
11 ment, including equipment installed on the
12 premises of a consumer, which is used by the
13 taxpayer—

14 “(i) to measure and record electricity
15 usage data on a time-differentiated basis
16 of at least 10 minutes, and

17 “(ii) to provide such data on demand
18 to both consumers and the taxpayer.”.

○