

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5019  
OFFERED BY MR. REICHERT OF WASHINGTON**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;  
2 TABLE OF CONTENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the  
4 “Expanding Building Efficiency Incentives Act of 2010”.

5 (b) AMENDMENT OF 1986 CODE.—Except as other-  
6 wise expressly provided, whenever in this Act an amend-  
7 ment or repeal is expressed in terms of an amendment  
8 to, or repeal of, a section or other provision, the reference  
9 shall be considered to be made to a section or other provi-  
10 sion of the Internal Revenue Code of 1986.

11 (c) TABLE OF CONTENTS.—The table of contents for  
12 this Act is as follows:

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Increase in, and extension of, new energy efficient home credit.
- Sec. 3. Modification of deduction for energy efficient commercial buildings.
- Sec. 4. Nonbusiness energy property.
- Sec. 5. Energy ratings of non-business property.
- Sec. 6. Credit for home performance auditor certifications.

**13 SEC. 2. INCREASE IN, AND EXTENSION OF, NEW ENERGY  
14 EFFICIENT HOME CREDIT.**

15 (a) NEW TIER; CREDIT AMOUNT FOR NEW TIER.—

1           (1) NEW TIER.—Subsection (c) of section 45L  
2 is amended to read as follows:

3           “(e) ENERGY SAVINGS REQUIREMENTS.—

4           “(1) IN GENERAL.—A dwelling unit meets the  
5 energy saving requirements of this subsection if such  
6 unit is—

7           “(A) described in paragraph (2),

8           “(B) described in paragraph (3),

9           “(C) a manufactured home described in  
10 paragraph (4), or

11           “(D) a manufactured home described in  
12 paragraph (5).

13           “(2) DWELLING UNIT DESCRIBED IN PARA-  
14 GRAPH (2).—A dwelling unit is described in this  
15 paragraph if such unit is certified—

16           “(A) to have a level of annual heating and  
17 cooling energy consumption which is at least 50  
18 percent below the annual level of heating and  
19 cooling energy consumption of a comparable  
20 dwelling unit—

21           “(i) which is constructed in accord-  
22 ance with the standards of chapter 4 of the  
23 2003 International Energy Conservation  
24 Code, as such Code (including supple-  
25 ments) is in effect on the date of the en-

1 actment of the Energy Tax Incentives Act  
2 of 2005, and

3 “(ii) for which the heating and cooling  
4 equipment efficiencies correspond to the  
5 minimum allowed under the regulations es-  
6 tablished by the Department of Energy  
7 pursuant to the National Appliance Energy  
8 Conservation Act of 1987 and in effect at  
9 the time of completion of construction, and  
10 “(B) to have building envelope component  
11 improvements account for at least  $\frac{1}{5}$  of such  
12 50 percent.

13 The Secretary, in consultation with the Secretary of  
14 Energy shall provide by regulation for the applica-  
15 tion of this paragraph in the case of a dwelling unit  
16 in a multifamily building that is more than 3 stories  
17 above grade, or in any other building that is not  
18 within the scope of such chapter 4. If, upon the ac-  
19 quisition of such unit by any person described in  
20 subsection (a)(1)(A)(ii)(I), the amount of the credit  
21 allowed under this section with respect to such unit  
22 shall be disclosed to such person.

23 “(3) DWELLING UNIT DESCRIBED IN PARA-  
24 GRAPH (3).—A dwelling unit is described in this  
25 paragraph if such unit is certified—

1           “(A) to have a level of annual total energy  
2           consumption (including heating, cooling, water  
3           heating, lighting, and appliance energy use)  
4           which is at least 50 percent below the annual  
5           level of total energy consumption of a com-  
6           parable dwelling unit which is constructed in  
7           accordance with the 2004 Supplement of the  
8           2003 International Energy Conservation Code,  
9           and

10           “(B) to have building envelope component  
11           improvements account for at least  $\frac{1}{5}$  of such  
12           50 percent.

13           “(4) MANUFACTURED HOME DESCRIBED IN  
14           PARAGRAPH (4).—A manufactured home is described  
15           in this paragraph if such manufactured home con-  
16           forms to Federal Manufactured Home Construction  
17           and Safety Standards (part 3280 of title 24, Code  
18           of Federal Regulations) and meets the requirements  
19           of a dwelling unit described in paragraph (2).

20           “(5) MANUFACTURED HOME DESCRIBED IN  
21           PARAGRAPH (5).—A manufactured home is described  
22           in this paragraph if such manufactured home con-  
23           forms to Federal Manufactured Home Construction  
24           and Safety Standards (part 3280 of title 24, Code  
25           of Federal Regulations) and—

1 “(A) meets the requirements of—

2 “(i) a dwelling unit described in para-  
3 graph (2), applied by substituting ‘30 per-  
4 cent’ for ‘50 percent’ both places it ap-  
5 pears therein and by substituting ‘ $\frac{1}{3}$ ’ for  
6 ‘ $\frac{1}{5}$ ’ in subparagraph (B) thereof, or

7 “(ii) a dwelling unit described in para-  
8 graph (3),

9 “(B) meets the requirements established  
10 by the Administrator of the Environmental Pro-  
11 tection Agency under the Energy Star Labeled  
12 Homes program as in effect on the date of the  
13 enactment of the Expanding Building Effi-  
14 ciency Incentives Act of 2010, or

15 “(C) meets the requirements under the  
16 Energy Star Labeled Homes program estab-  
17 lished after the date of the enactment of the  
18 Expanding Building Efficiency Incentives Act  
19 of 2010.”.

20 (2) CREDIT AMOUNT FOR NEW TIER.—Para-  
21 graph (2) of section 45L(a) is amended to read as  
22 follows:

23 “(2) APPLICABLE AMOUNT.—For purposes of  
24 paragraph (1), the applicable amount is an amount  
25 equal to—

1           “(A) in the case of a dwelling unit de-  
2           scribed in paragraph (2) or (4) of subsection  
3           (c), \$2,000,

4           “(B) in the case of a dwelling unit de-  
5           scribed in paragraph (3) of subsection (c),  
6           \$5,000,

7           “(C) in the case of a manufactured home  
8           described in paragraph (5)(A)(i) or (5)(B) of  
9           subsection (c), \$1,500, and

10           “(D) in the case of a manufactured home  
11           described in paragraph (5)(A)(ii) or (5)(C) of  
12           subsection (c), \$2,500.

13           Nothing in this section shall permit the same dwell-  
14           ing unit or manufactured home to qualify for more  
15           than one applicable amount.”.

16           (b) CREDIT AVAILABLE FOR RENTAL UNITS,  
17           OWNER-BUILDERS, AND QUALIFIED LOW-INCOME  
18           BUILDINGS; CREDIT AMOUNT FOR QUALIFIED LOW-IN-  
19           COME BUILDINGS.—

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

22           “(1) IN GENERAL.—For purposes of section  
23           38—

24           “(A) in the case of an eligible contractor,  
25           the new energy efficient home credit for the

1 taxable year is the applicable amount for each  
2 qualified new energy efficient home which is—

3 “(i) constructed by the eligible con-  
4 tractor, and

5 “(ii)(I) acquired by a person from  
6 such eligible contractor and used by any  
7 person as a residence during the taxable  
8 year, or

9 “(II) used by such eligible contractor  
10 as a residence during the taxable year, and

11 “(B) in the case of a taxpayer, the new en-  
12 ergy efficient home credit for the taxable year  
13 is the applicable amount for each qualified new  
14 energy efficient home which is in a qualified  
15 low-income building (as defined in section  
16 42(c)(2))—

17 “(i) placed in service by the taxpayer  
18 during the taxable year, and

19 “(ii) for which such taxpayer is al-  
20 lowed a credit under section 42 or a  
21 subaward under section 1602(c) of the  
22 American Recovery and Reinvestment Tax  
23 Act of 2009.”

1           (2) CREDIT AMOUNT.—Paragraph (2) of section  
2           45L(a), as amended by this section, is amended by  
3           adding at the end the following new flush sentence:  
4           “In the case of a dwelling unit in a qualified low-  
5           income building (as so defined), the applicable dollar  
6           amount for such a dwelling unit described in 1 of  
7           the preceding subparagraphs shall be equal to 150  
8           percent of the dollar amount otherwise specified in  
9           such preceding subparagraph, except that if the  
10          credit under section 42 with respect to such unit is  
11          determined by applying section 42(d)(5)(B), then  
12          the applicable dollar amount shall be 115 percent of  
13          such dollar amount so specified.”.

14          (c) CERTIFICATION METHOD FOR HIGH RISE MUL-  
15          TIFAMILY AND MIXED USE BUILDINGS.—Section  
16          45L(d)(1) is amended by inserting “, and in the case of  
17          high rise multifamily and mixed use buildings, after exam-  
18          ining the methods required for such buildings under sec-  
19          tion 179D” after “the Secretary of Energy”.

20          (d) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
21          IMUM TAX.—Subparagraph (B) of section 38(c)(4) is  
22          amended—

23                  (1) by redesignating clauses (vi), (vii), and (viii)  
24                  as clauses (vii), (viii), and (ix), respectively, and

1 (2) by inserting after clause (v) the following  
2 new clause:

3 “(vi) the credit determined under sec-  
4 tion 45L.”

5 (e) EXTENSION.—Subsection (g) of section 45L is  
6 amended by striking “December 31, 2009” and inserting  
7 “December 31, 2015”.

8 (f) EFFECTIVE DATES.—

9 (1) IN GENERAL.—The amendments made by  
10 this section shall apply to homes constructed and ac-  
11 quired or placed in service after December 31, 2008.

12 (2) AMT.—The amendments made by sub-  
13 section (d) shall apply to credits determined under  
14 section 45L of the Internal Revenue Code of 1986  
15 in taxable years beginning after December 31, 2008,  
16 and to carrybacks of such credits.

17 **SEC. 3. MODIFICATION OF DEDUCTION FOR ENERGY EFFI-**  
18 **CIENT COMMERCIAL BUILDINGS.**

19 (a) INCREASE IN MAXIMUM AMOUNT OF DEDUC-  
20 TION.—

21 (1) IN GENERAL.—Subparagraph (A) of section  
22 179D(b)(1) is amended by striking “\$1.80” and in-  
23 serting “\$3.00”.

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

1 “(1) PARTIAL ALLOWANCE.—

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

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

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

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

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

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

1 section (b) shall be applied to such property de-  
2 scribed in clause (ii)(I) by substituting '\$1.00'  
3 for '\$3.00' and to such property described in  
4 clause (ii)(II) by substituting '\$2.20' for  
5 '\$3.00'.

6 "(B) REGULATIONS.—

7 "(i) IN GENERAL.—The Secretary,  
8 after consultation with the Secretary of  
9 Energy, shall establish a target for each  
10 system described in subsection (c)(1)(C)  
11 which, if such targets were met for all such  
12 systems, the building would meet the re-  
13 quirements of subsection (c)(1)(D).

14 "(ii) COMBINED SYSTEMS.—The Sec-  
15 retary, after consultation with the Sec-  
16 retary of Energy, shall establish not later  
17 than 6 months after the date of the enact-  
18 ment of the Expanding Building Efficiency  
19 Incentives Act of 2010 a prescriptive par-  
20 tial compliance pathway for combined en-  
21 velope and mechanical system performance  
22 that details the appropriate components,  
23 efficiency levels, or other relevant informa-  
24 tion for which the required level of com-

1                   bined savings in both categories can be  
2                   deemed to have been achieved.”.

3           (b) DENIAL OF DOUBLE BENEFIT.—Section 179D is  
4 amended by redesignating subsections (g) and (h) as sub-  
5 sections (h) and (i), respectively, and by inserting after  
6 subsection (f) the following new subsection:

7           “(g) COORDINATION WITH NEW ENERGY EFFICIENT  
8 HOME CREDIT.—No deduction shall be allowed under this  
9 section with respect to any building or dwelling unit with  
10 respect to which a credit under section 45L was allowed.”.

11          (c) EXTENSION.—Subsection (h) of section 179D is  
12 amended by striking “December 31, 2013” and inserting  
13 “December 31, 2015”.

14          (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to property placed in service in  
16 taxable years beginning after the date of the enactment  
17 of this Act.

18 **SEC. 4. NONBUSINESS ENERGY PROPERTY.**

19          (a) INCREASE IN LIMITATION AMOUNT.—Subsection  
20 (b) of section 25C is amended by striking “\$1,500” and  
21 inserting “\$5,000”.

22          (b) EXTENSION.—Paragraph (2) of section 25C(g) is  
23 amended by striking “December 31, 2010” and inserting  
24 “December 31, 2015”.

1 (c) ONSITE LABOR COSTS ALLOWED.—Paragraph  
2 (1) of section 25C(c) is amended by adding at the end  
3 the following flush sentence: “Such term includes amounts  
4 paid or incurred for labor costs properly allocable to the  
5 onsite preparation, assembly, or original installation of  
6 such improvements.”.

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. 5. ENERGY RATINGS OF NON-BUSINESS PROPERTY.**

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

15 **“SEC. 25E. ENERGY RATINGS OF NON-BUSINESS PROPERTY.**

16 “(a) IN GENERAL.—In the case of an individual,  
17 there shall be allowed as a credit against the tax imposed  
18 by this chapter for the taxable year an amount equal to  
19 the amount paid or incurred by the taxpayer for a quali-  
20 fied home energy rating conducted during such taxable  
21 year.

22 “(b) LIMITATION.—The amount allowed as a credit  
23 under subsection (a) with respect to any taxpayer for any  
24 taxable year shall not exceed \$200.

1           “(c) QUALIFIED HOME ENERGY RATING.—For pur-  
2 poses of this section, the term ‘qualified home energy rat-  
3 ing’ means a home energy rating conducted with respect  
4 to any residence of the taxpayer by a home performance  
5 auditor certified by a provider accredited by the Building  
6 Performance Institute (BPI), the Residential Energy  
7 Services Network (RESNET), or equivalent rating system  
8 as determined by the Secretary of Energy.

9           “(d) TERMINATION.—This section shall not apply  
10 with respect to any rating conducted after December 31,  
11 2011.”.

12           (b) CLERICAL AMENDMENT.—The table of sections  
13 for subpart A of part IV of subchapter A chapter 1 is  
14 amended by inserting after the item relating to section  
15 25D the following new item:

“Sec. 25E. Energy ratings of non-business property.”.

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. 6. CREDIT FOR HOME PERFORMANCE AUDITOR CER-**  
21 **TIFICATIONS.**

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

1 **“SEC. 45S. HOME PERFORMANCE AUDITOR CERTIFICATION**

2 **CREDIT.**

3 “(a) **IN GENERAL.**—For purposes of section 38, the  
4 home performance auditor certification credit determined  
5 under this section for any taxable year is an amount equal  
6 to the qualified training and certification costs paid or in-  
7 curred by the taxpayer which may be taken into account  
8 for such taxable year.

9 “(b) **QUALIFIED TRAINING AND CERTIFICATION**  
10 **COSTS.**—

11 “(1) **IN GENERAL.**—The term ‘qualified train-  
12 ing and certification costs’ means costs paid or in-  
13 curred for training which is required for the tax-  
14 payer or employees of the taxpayer to be certified as  
15 home performance auditors for purposes of providing  
16 qualified home energy ratings under section 25E(c).

17 “(2) **LIMITATION.**—The qualified training and  
18 certification costs taken into account under sub-  
19 section (a)(1) for the taxable year with respect to  
20 any individual shall not exceed \$500 reduced by the  
21 amount of the credit allowed under subsection (a)(1)  
22 to the taxpayer (or any predecessor) with respect to  
23 such individual for all prior taxable years.

24 “(3) **YEAR COSTS TAKEN INTO ACCOUNT.**—  
25 Qualified training and certifications costs with re-  
26 spect to any individual shall not be taken into ac-

1 count under subsection (a)(1) before the taxable  
2 year in which the individual with respect to whom  
3 such costs are paid or incurred has performed 25  
4 qualified home energy ratings under section 25E(c).

5 “(c) SPECIAL RULES.—

6 “(1) AGGREGATION RULES.—For purposes of  
7 this section, all persons treated as a single employer  
8 under subsections (a) and (b) of section 52 shall be  
9 treated as 1 person.

10 “(2) 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 (35), by striking the period

1 at the end of paragraph (36) and inserting “plus”, and  
2 by adding at the end the following new paragraph:

3           “(37) the home performance auditor certifi-  
4           cation credit determined under section 45S(a).”.

5       (c) CONFORMING AMENDMENT.—The table of sec-  
6 tions for subpart D of part IV of subchapter A of chapter  
7 1 is amended by inserting after the item relating to section  
8 45Q the following new item:

          “Sec. 45S. Home performance auditor certification credit.”.

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

Amend the title so as to read: “A Bill to amend the  
Internal Revenue Code of 1986 to improve and extend  
certain energy-related tax provisions, and for other pur-  
poses.”.

