To amend the Internal Revenue Code of 1986 to provide a credit for performance based home energy improvements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2011

Ms. SNOWE (for herself, Mr. BINGAMAN, and Mrs. FEINSTEIN) 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 provide a credit for performance based home energy improvements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the “Cut Energy Bills at Home Act”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference
shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. PERFORMANCE BASED HOME ENERGY IMPROVEMENTS.

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

“SEC. 25E. PERFORMANCE BASED ENERGY IMPROVEMENTS.

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

“(b) AMOUNT DETERMINED.—

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

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

“(B) the amount determined under paragraph (3).

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

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

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

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

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

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

“(A) IN GENERAL.—The reduction in en-
ergy use for any residence shall be determined
by modeling the annual predicted percentage re-
duction in total energy costs for heating, cool-
ing, hot water, and permanent lighting. It shall
be modeled using computer modeling software
approved under subsection (d)(2) and a baseline
energy use calculated according to subsection (d)(1)(C).

“(B) ENERGY COSTS.—For purposes of subparagraph (A), the energy cost per unit of fuel for each fuel type shall be determined by dividing the total actual energy bill for the residence for that fuel type for the most recent available 12-month period by the total energy units of that fuel type used over the same period.

“(c) QUALIFIED HOME ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section, the term ‘qualified home energy efficiency expenditures’—

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

“(2) includes only measures that have an average estimated life of 5 years or more as determined by the Secretary, after consultation with the Secretary of Energy,

“(3) does not include any amount which is paid or incurred in connection with any expansion of the building envelope of the residence, and
“(4) does not include improvements to swimming pools or hot tubs or any other expenditure specifically excluded by the Secretary, after consultation with the Secretary of Energy.

“(d) QUALIFIED WHOLE HOME ENERGY EFFICIENCY RETROFIT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified whole home energy efficiency retrofit’ means the implementation of measures placed in service during the taxable year intended to reduce the energy use of the principal residence of the taxpayer which is located in the United States. A qualified whole home energy efficiency retrofit shall—

“(A) be designed, implemented, and installed by a contractor which is—

“(i) accredited by the Building Performance Institute (hereafter in this section referred to as ‘BPI’) or a preexisting BPI accreditation-based State certification program with enhancements to achieve State energy policy,

“(ii) a Residential Energy Services Network (hereafter in this section referred to as ‘RESNET’) accredited Energy Smart Home Performance Team, or
“(iii) accredited by an equivalent certification program approved by the Secretary, after consultation with the Secretary of Energy, for this purpose,

“(B) install a set of measures modeled to achieve a reduction in energy use of at least 20 percent below the baseline energy use established in subparagraph (C), using computer modeling software approved under paragraph (2),

“(C) establish the baseline energy use by calibrating the model using sections 3 and 4 and Annex D of BPI Standard BPI–2400–S–2011: Standardized Qualification of Whole House Energy Savings Estimates, or an equivalent standard approved by the Secretary, after consultation with Secretary of Energy, for this purpose,

“(D) document the measures implemented in the residence through photographs taken before and after the retrofit, including photographs of its visible energy systems and envelope as relevant, and

“(E) implement a test-out procedure, following guidelines of the applicable certification
program specified under clause (i) or (ii) of subparagraph (A), or equivalent guidelines approved by the Secretary, after consultation with the Secretary of Energy, for this purpose, to ensure—

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

“(ii) that all improvements are included in, and have been installed according to, standards of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent standards approved by the Secretary, after consultation with the Secretary of Energy, for this purpose.

For purposes of subparagraph (A)(iii), an organization or State may submit an equivalent certification program for approval by the Secretary, in consultation with the Secretary of Energy. The Secretary shall approve or deny such submission not later than 180 days after receipt, and, if the Secretary fails to respond in that time period, the submitted equivalent certification program shall be considered approved.
“(2) APPROVED MODELING SOFTWARE.—For purposes of paragraph (1)(B), the contractor shall use modeling software certified by RESNET as following the software verification test suites in section 4.2.1 of RESNET Publication No. 06–001 or certified by an alternative organization as following an equivalent standard, as approved by the Secretary, after consultation with the Secretary of Energy, for this purpose.

“(3) DOCUMENTATION.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations directing what specific documentation is required to be retained or submitted by the taxpayer in order to claim the credit under this section, which shall include, in addition to the photographs under paragraph (1)(D), a form approved by the Secretary that is completed and signed by the qualified whole home energy efficiency retrofit contractor under penalties of perjury. Such form shall include—

“(A) a statement that the contractor followed the specified procedures for establishing baseline energy use and estimating reduction in energy use,
“(B) the name of the software used for calculating the baseline energy use and reduction in energy use, the percentage reduction in projected energy savings achieved, and a statement that such software was certified for this program by the Secretary, after consultation with the Secretary of Energy,

“(C) a statement that the contractor will retain the details of the calculations and underlying energy bills for 5 years and will make such details available for inspection by the Secretary or the Secretary of Energy, if so requested,

“(D) a list of measures installed and a statement that all measures included in the reduction in energy use estimate are included in, and installed according to, standards of the applicable certification program specified under clause (i) or (ii) of subparagraph (A), or equivalent standards approved by the Secretary, after consultation with the Secretary of Energy,

“(E) a statement that the contractor meets the requirements of paragraph (1)(A), and
“(F) documentation of the total cost of the project in order to comply with the limitation under subsection (b)(4)(B).

“(e) ADDITIONAL RULES.—For purposes of this section—

“(1) NO DOUBLE BENEFIT.—

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

“(B) RENEWABLE ENERGY SYSTEMS AND APPLIANCES.—In the case of a renewable energy system or appliance that qualifies for another credit under this chapter, the resulting reduction in energy use shall not be taken into account in determining the percentage energy use reductions under subsection (b).

“(C) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term ‘qualified home energy efficiency expenditures’ shall not include any expenditure for which a deduction or credit is claimed by the taxpayer under this chapter for the taxable year or with respect to which the taxpayer receives any Federal energy efficiency rebate.
“(2) **Principal residence.**—The term ‘principal residence’ has the same meaning as when used in section 121.

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

“(4) **Basis adjustments.**—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(5) **Election not to claim credit.**—No credit shall be determined under subsection (a) for the taxable year if the taxpayer elects not to have subsection (a) apply to such taxable year.

“(6) **Multiple year retrofits.**—If the taxpayer has claimed a credit under this section in a previous taxable year, the baseline energy use for the calculation of reduced energy use must be established after the previous retrofit has been placed in service.
“(f) TERMINATION.—This section shall not apply with respect to any costs paid or incurred after December 31, 2016.

“(g) SECRETARY REVIEW.—The Secretary, after consultation with the Secretary of Energy, shall establish a review process for the retrofits performed, including an estimate of the usage of the credit and a statistically valid analysis of the average actual energy use reductions, utilizing utility bill data collected on a voluntary basis, and report to Congress not later than June 30, 2014, any findings and recommendations for—

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

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

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended—

(A) by striking “and” at the end of paragraph (36),

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

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

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

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

(3) The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

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

(e) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred for a qualified whole home energy efficiency retrofit placed in service after December 31, 2011.