

118TH CONGRESS
1ST SESSION

S. 2106

To amend the Internal Revenue Code of 1986 to provide a credit against tax for disaster mitigation expenditures.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mr. BENNET (for himself and Mr. CASSIDY) 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 against tax for disaster mitigation expenditures.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Shelter Act”.

5 **SEC. 2. NONREFUNDABLE PERSONAL CREDIT FOR DIS-**
6 **ASTER MITIGATION EXPENDITURES.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 25E the fol-
10 lowing new section:

1 **“SEC. 25F. DISASTER MITIGATION EXPENDITURES.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year an amount
5 equal to 25 percent of the qualified disaster mitigation ex-
6 penditures made by the taxpayer during such taxable year.

7 “(b) MAXIMUM CREDIT.—

8 “(1) IN GENERAL.—Subject to paragraphs (2)
9 and (3), the credit allowed under subsection (a) for
10 any taxable year shall not exceed \$2,500.

11 “(2) PHASEOUT.—

12 “(A) IN GENERAL.—The amount under
13 paragraph (1) for the taxable year shall be re-
14 duced (but not below zero) by an amount which
15 bears the same ratio to the amount under such
16 paragraph as—

17 “(i) the amount (not less than zero)
18 equal to the adjusted gross income of the
19 taxpayer for such taxable year minus
20 \$100,000, bears to

21 “(ii) \$50,000.

22 “(B) INFLATION ADJUSTMENT.—In the
23 case of any taxable year after 2024, each of the
24 dollar amounts under subparagraph (A) shall
25 be increased by an amount equal to—

26 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for the cal-
3 endar year in which the taxable year be-
4 gins, determined by substituting ‘calendar
5 year 2023’ for ‘calendar year 2016’ in sub-
6 paragraph (A)(ii) thereof.

7 “(C) ROUNDING.—If any reduction deter-
8 mined under subparagraph (A) is not a multiple
9 of \$50, or any increase under subparagraph (B)
10 is not a multiple of \$50, such amount shall be
11 rounded to the nearest multiple of \$50.

12 “(3) JOINT RETURN.—If a joint return is filed
13 by the taxpayer for any taxable year—

14 “(A) for purposes of determining the
15 amount of any credit allowed under subsection
16 (a) for such taxable year, the dollar amount
17 under paragraph (1) shall be doubled, and

18 “(B) for purposes of determining the
19 amount of any reduction under paragraph
20 (2)(A) for any taxable year, the dollar amounts
21 under such paragraph (after application of sub-
22 paragraphs (B) and (C) of paragraph (2)) shall
23 be doubled.

24 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) QUALIFIED DISASTER MITIGATION EX-
2 PENDITURE.—

3 “(A) IN GENERAL.—The term ‘qualified
4 disaster mitigation expenditure’ means an ex-
5 penditure relating to a qualified dwelling unit—

6 “(i) for property to—

7 “(I) improve the strength of a
8 roof deck attachment,

9 “(II) create a secondary water
10 barrier to prevent water intrusion or
11 mitigate against potential water intru-
12 sion from wind-driven rain,

13 “(III) improve the durability, im-
14 pact resistance (not less than class 3
15 or 4 rating), or fire resistance (not
16 less than class A rating) of a roof cov-
17 ering,

18 “(IV) brace gable-end walls,

19 “(V) reinforce the connection be-
20 tween a roof and supporting wall,

21 “(VI) protect openings from pen-
22 etration by wind-borne debris,

23 “(VII) protect exterior doors and
24 garages from natural hazards,

1 “(VIII) complete measures con-
2 tained in the publication of the Fed-
3 eral Emergency Management Agency
4 entitled ‘Wind Retrofit Guide for Res-
5 idential Buildings’ (P-804),

6 “(IX) elevate the qualified dwell-
7 ing unit, as well as utilities, machin-
8 ery, or equipment, above the base
9 flood elevation or other applicable
10 minimum elevation requirement,

11 “(X) seal walls in the basement
12 of the qualified dwelling unit using
13 waterproofing compounds, or

14 “(XI) protect propane tanks or
15 other external fuel sources,

16 “(ii) to install—

17 “(I) check valves to prevent flood
18 water from backing up into drains,

19 “(II) flood vents, breakaway
20 walls or open lattice for homes located
21 in V zones,

22 “(III) a stormwater drainage sys-
23 tem or improve an existing system,

1 “(IV) natural or nature-based
2 features for flood control, including
3 living shorelines,

4 “(V) roof coverings, sheathing,
5 flashing, roof and attic vents, eaves,
6 or gutters that conform to ignition-re-
7 sistant construction standards,

8 “(VI) wall components for wall
9 assemblies that conform to ignition-re-
10 sistant construction standards,

11 “(VII) a wall-to-foundation an-
12 chor or connector, or a shear transfer
13 anchor or connector,

14 “(VIII) wood structural panel
15 sheathing for strengthening cripple
16 walls,

17 “(IX) anchorage of the masonry
18 chimney to the framing,

19 “(X) prefabricated lateral resist-
20 ing systems,

21 “(XI) a standby generator sys-
22 tem consisting of a standby generator
23 and an automatic transfer switch,

24 “(XII) a storm shelter that meets
25 the design and construction standards

1 established by the International Code
2 Council and the National Storm Shel-
3 ter Association (ICC-500), or a safe
4 room that satisfies the criteria con-
5 tained in—

6 “(aa) the publication of the
7 Federal Emergency Management
8 Agency entitled ‘Safe Rooms for
9 Tornadoes and Hurricanes’ (P-
10 361), or

11 “(bb) the publication of the
12 Federal Emergency Management
13 Agency entitled ‘Taking Shelter
14 from the Storm’ (P-320),

15 “(XIII) a lightning protection
16 system,

17 “(XIV) exterior walls, doors, win-
18 dows, or other exterior dwelling unit
19 elements that conform to ignition-re-
20 sistant construction standards,

21 “(XV) exterior deck or fence
22 components that conform to ignition-
23 resistant construction standards,

24 “(XVI) structure-specific water
25 hydration systems, including fire miti-

1 gation systems such as interior and
2 exterior sprinkler systems,

3 “(XVII) water capture and deliv-
4 ery systems to accommodate drought
5 events or to decrease water use, in-
6 cluding the design of such systems,

7 “(XVIII) flood openings for fully
8 enclosed areas below the lowest floor
9 of the dwelling unit,

10 “(XIX) lateral bracing for wall
11 elements, foundation elements, and
12 garage doors or other large openings
13 to resist seismic loads, or

14 “(XX) automatic shutoff valves
15 for water and gas lines, or

16 “(iii) for services or equipment to—

17 “(I) create buffers around the
18 qualified dwelling unit through the re-
19 moval or reduction of flammable vege-
20 tation, including vertical clearance of
21 tree branches,

22 “(II) create buffers around the
23 dwelling unit through—

1 “(aa) the removal of exterior
2 deck or fence components or igni-
3 tion-prone landscape features, or
4 “(bb) replacement of the
5 components or features described
6 in item (aa) with components or
7 features that conform to ignition-
8 resistant construction standards,
9 “(III) perform fire maintenance
10 procedures identified by the Federal
11 Emergency Management Agency or
12 the United States Forest Service, in-
13 cluding fuel management techniques
14 such as creating fuel and fire breaks,
15 “(IV) gather and analyze water
16 and weather data to better under-
17 stand the local climate and drought
18 history,
19 “(V) replace flammable vegeta-
20 tion with less flammable species,
21 “(VI) determine the risk of nat-
22 ural disasters which may occur in the
23 area in which the qualified dwelling
24 unit is located, or

1 “(VII) prevent smoke inhalation,
2 such as air filters or other equipment
3 designed to prevent smoke from enter-
4 ing the dwelling unit,

5 “(iv) for property relating to satis-
6 fying the standards required for receipt of
7 a FORTIFIED designation from the In-
8 surance Institute for Business and Home
9 Safety, provided that the qualified dwelling
10 unit receives such designation following in-
11 stallation of such property, or

12 “(v) for any other hazard mitigation
13 activity which has been identified by the
14 Secretary, in consultation with the Admin-
15 istrator of the Federal Emergency Man-
16 agement Agency, for mitigation of a nat-
17 ural hazard.

18 “(B) EXCEPTION.—The term ‘qualified
19 disaster mitigation expenditure’ shall not in-
20 clude any expenditure or portion thereof which
21 is paid, funded, or reimbursed by a Federal,
22 State, or local government entity, or any polit-
23 ical subdivision, agency, or instrumentality
24 thereof.

1 “(2) QUALIFIED DWELLING UNIT.—The term
2 ‘qualified dwelling unit’ means a dwelling unit which
3 is—

4 “(A) located—

5 “(i) in the United States or in a terri-
6 tory of the United States, and

7 “(ii) in an area—

8 “(I) in which a Federal natural
9 disaster declaration has been made
10 within the preceding 5-year period,

11 “(II) which is adjacent to an
12 area described in subclause (I),

13 “(III) which, during the taxable
14 year or the period of the 5 taxable
15 years preceding such taxable year, has
16 received hazard mitigation assistance
17 through the Federal Emergency Man-
18 agement Agency in regard to any nat-
19 ural disaster which, with respect to
20 the expenditure described in para-
21 graph (1) which is made by the tax-
22 payer, is applicable to such expendi-
23 ture, or

24 “(IV) which, with respect to any
25 taxable year, has been designated as a

1 community disaster resilience zone (as
2 defined in section 206(a) of the Rob-
3 ert T. Stafford Disaster Relief and
4 Emergency Assistance Act (42 U.S.C.
5 5136(a))), and

6 “(B) used as a residence by the taxpayer.

7 “(d) LIMITATION.—

8 “(1) IN GENERAL.—In the case of an expendi-
9 ture described in clause (i) or (ii) of subsection
10 (c)(1)(A), such expenditure shall be taken into ac-
11 count in determining the qualified disaster mitiga-
12 tion expenditures made by the taxpayer during the
13 taxable year only if the onsite preparation, assembly,
14 or original installation of the property with respect
15 to which such expenditure is made has been com-
16 pleted in a manner that is deemed to be in compli-
17 ance with the latest published editions of relevant
18 consensus-based codes, specifications, and standards
19 or any more restrictive Federal, State, or local flood-
20 plain management standards and consistent with
21 floodplain management regulations for the local ju-
22 risdiction in which the qualified dwelling unit is lo-
23 cated.

24 “(2) LATEST PUBLISHED EDITIONS.—The term
25 ‘latest published editions’ means, with respect to rel-

1 evant consensus-based codes, specifications, and
2 standards, either of the 2 most recently published
3 editions.

4 “(e) LABOR COSTS.—For purposes of this section,
5 expenditures for labor costs properly allocable to the onsite
6 preparation, assembly, or original installation of the prop-
7 erty described in clause (i) or (ii) of subsection (c)(1)(A)
8 shall be taken into account in determining the qualified
9 disaster mitigation expenditures made by the taxpayer
10 during the taxable year.

11 “(f) INSPECTION COSTS.—For purposes of this sec-
12 tion, expenditures for the cost of any inspection required
13 under subsection (d) which is properly allocable to the in-
14 spection of the preparation, assembly, or installation of
15 the property described in clause (i) or (ii) of subsection
16 (c)(1)(A) shall be taken into account in determining the
17 qualified disaster mitigation expenditures made by the
18 taxpayer during the taxable year.

19 “(g) CARRYFORWARD OF UNUSED CREDIT.—

20 “(1) IN GENERAL.—If the credit allowable
21 under subsection (a) for any taxable year exceeds
22 the applicable tax limit for such taxable year, such
23 excess shall be a carryover to each of the 5 suc-
24 ceeding taxable years and, subject to the limitations
25 of paragraph (2), shall be added to the credit allow-

1 able by subsection (a) for such succeeding taxable
2 year.

3 “(2) LIMITATION.—The amount of the unused
4 credit which may be taken into account under para-
5 graph (1) for any taxable year shall not exceed the
6 amount (if any) by which the applicable tax limit for
7 such taxable year exceeds the sum of—

8 “(A) the credit allowable under subsection
9 (a) for such taxable year determined without re-
10 gard to this subsection, and

11 “(B) the amounts which, by reason of this
12 subsection, are carried to such taxable year and
13 are attributable to taxable years before the un-
14 used credit year.

15 “(3) APPLICABLE TAX LIMIT.—For purposes of
16 this subsection, the term ‘applicable tax limit’ means
17 the limitation imposed by section 26(a) for the tax-
18 able year reduced by the sum of the credits allowable
19 under this subpart (other than this section).

20 “(h) DOCUMENTATION.—Any taxpayer claiming the
21 credit under this section shall provide the Secretary with
22 adequate documentation regarding the specific qualified
23 disaster mitigation expenditures made by the taxpayer
24 during the taxable year, as well as such other information
25 or documentation as the Secretary may require.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tions for subpart A of part IV of subchapter A of chapter
 3 1 of such Code is amended by inserting after the item
 4 relating to section 25E the following new item:

“Sec. 25F. Disaster mitigation expenditures.”.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to taxable years beginning after
 7 December 31, 2023.

8 **SEC. 3. BUSINESS-RELATED CREDIT FOR DISASTER MITIGA-**
 9 **TION.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-
 11 chapter A of chapter 1 of the Internal Revenue Code of
 12 1986 is amended by inserting after section 45AA the fol-
 13 lowing new section:

14 **“SEC. 45BB. DISASTER MITIGATION CREDIT.**

15 “(a) GENERAL RULE.—For purposes of section 38,
 16 the disaster mitigation credit determined under this sec-
 17 tion for any taxable year is an amount equal to 25 percent
 18 of the qualified disaster mitigation expenditures made by
 19 the taxpayer during the taxable year.

20 “(b) MAXIMUM CREDIT.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
 22 the amount of the credit determined under sub-
 23 section (a) for any taxable year shall not exceed
 24 \$5,000.

25 “(2) PHASEOUT.—

1 “(A) IN GENERAL.—The amount under
2 paragraph (1) for the taxable year shall be re-
3 duced (but not below zero) by an amount which
4 bears the same ratio to the amount under such
5 paragraph as—

6 “(i) the amount (not less than zero)
7 equal to the average gross receipts of the
8 taxpayer over the 3 preceding taxable
9 years minus \$5,000,000, bears to

10 “(ii) \$5,000,000.

11 “(B) INFLATION ADJUSTMENT.—In the
12 case of any taxable year after 2024, each of the
13 dollar amounts under subparagraph (A) shall
14 be increased by an amount equal to—

15 “(i) such dollar amount, multiplied by

16 “(ii) the cost-of-living adjustment de-
17 termined under section 1(f)(3) for the cal-
18 endar year in which the taxable year be-
19 gins, determined by substituting ‘calendar
20 year 2023’ for ‘calendar year 2016’ in sub-
21 paragraph (A)(ii) thereof.

22 “(C) ROUNDING.—If any reduction deter-
23 mined under subparagraph (A) is not a multiple
24 of \$50, or any increase under subparagraph (B)

1 is not a multiple of \$50, such amount shall be
2 rounded to the nearest multiple of \$50.

3 “(c) QUALIFIED DISASTER MITIGATION EXPENDI-
4 TURE.—

5 “(1) IN GENERAL.—For purposes of this sec-
6 tion, the term ‘qualified disaster mitigation expendi-
7 ture’ has the same meaning given such term under
8 paragraph (1) of section 25F(c), except that ‘place
9 of business’ shall be substituted for ‘qualified dwell-
10 ing unit’ each place it appears in such paragraph.

11 “(2) PLACE OF BUSINESS.—For purposes of
12 this section, an expenditure shall not be treated as
13 a qualified disaster mitigation expenditure (as de-
14 fined in paragraph (1)) unless the taxpayer’s place
15 of business is located—

16 “(A) in the United States or in a territory
17 of the United States, and

18 “(B) in an area—

19 “(i) in which a Federal natural dis-
20 aster declaration has been made within the
21 preceding 5-year period,

22 “(ii) which is adjacent to an area de-
23 scribed in clause (i),

24 “(iii) which, during the taxable year
25 or the period of the 5 taxable years pre-

1 ceding such taxable year, has received haz-
2 ard mitigation assistance through the Fed-
3 eral Emergency Management Agency in re-
4 gard to any natural disaster which, with
5 respect to the expenditure described in sec-
6 tion 25F(c)(1) which is made by the tax-
7 payer, is applicable to such expenditure, or

8 “(iv) which, with respect to any tax-
9 able year, has been designated as a com-
10 munity disaster resilience zone (as defined
11 in section 206(a) of the Robert T. Stafford
12 Disaster Relief and Emergency Assistance
13 Act (42 U.S.C. 5136(a))).

14 “(d) SPECIAL RULES.—Rules similar to the rules of
15 subsections (d) through (g) of section 25F shall apply for
16 purposes of this section.

17 “(e) NO DOUBLE BENEFIT.—No credit shall be de-
18 termined under this section with respect to any expendi-
19 tures for which a credit was allowed under section 25F.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 38(b) of such Code is amended by
22 striking “plus” at the end of paragraph (40), by
23 striking the period at the end of paragraph (41) and
24 inserting “, plus”, and by adding at the end the fol-
25 lowing new paragraph:

1 “(42) the disaster mitigation credit determined
2 under section 45BB(a).”.

3 (2) The table of sections for subpart D of part
4 IV of subchapter A of chapter 1 of such Code is
5 amended by inserting after the item relating to sec-
6 tion 45AA the following new item:

 “Sec. 45BB. Disaster mitigation credit.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2023.

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