

107TH CONGRESS
1ST SESSION

S. 828

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy-efficient property.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2001

Mr. LIEBERMAN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. HUTCHINSON, Mr. DODD, Mrs. CLINTON, Ms. CANTWELL, Mr. CARPER, Mr. DORGAN, Mr. LEAHY, Mr. LEVIN, Mr. HARKIN, Mr. AKAKA, and Ms. MIKULSKI) 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 allow a credit against income tax for certain energy-efficient property.

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. CREDIT FOR CERTAIN ENERGY-EFFICIENT**
4 **PROPERTY.**

5 (a) BUSINESS PROPERTY.—

6 (1) IN GENERAL.—Subparagraph (A) of section
7 48(a)(3) of the Internal Revenue Code of 1986 (de-
8 fining energy property) is amended by striking “or”

1 at the end of clause (i), by adding “or” at the end
 2 of clause (ii), and by inserting after clause (ii) the
 3 following new clause:

4 “(iii) energy-efficient building prop-
 5 erty,”.

6 (2) ENERGY-EFFICIENT BUILDING PROP-
 7 ERTY.—Subsection (a) of section 48 of such Code is
 8 amended by redesignating paragraphs (4) and (5) as
 9 paragraphs (5) and (6), respectively, and by insert-
 10 ing after paragraph (3) the following new para-
 11 graph:

12 “(4) ENERGY-EFFICIENT BUILDING PROP-
 13 ERTY.—For purposes of this subsection—

14 “(A) IN GENERAL.—The term ‘energy-effi-
 15 cient building property’ means a stationary fuel
 16 cell power plant that—

17 “(i) generates electricity using an
 18 electrochemical process, and

19 “(ii) has an electricity-only generation
 20 efficiency greater than 30 percent.

21 “(B) LIMITATION.—In the case of energy-
 22 efficient building property placed in service dur-
 23 ing the taxable year, the credit determined
 24 under paragraph (1) for such year with respect

1 to such property shall not exceed an amount
2 equal to the lesser of—

3 “(i) $33\frac{1}{3}$ percent of the basis of such
4 property, or

5 “(ii) \$1,000 for each kilowatt of ca-
6 pacity of such property.

7 “(C) STATIONARY FUEL CELL POWER
8 PLANT.—The term ‘stationary fuel cell power
9 plant’ means an integrated system comprised of
10 a fuel cell stack assembly and associated bal-
11 ance of plant components that converts a fuel
12 into electricity using electrochemical means.

13 “(D) TERMINATION.—Such term shall not
14 include any property placed in service after De-
15 cember 31, 2006.”.

16 (3) LIMITATION.—Section 48(a)(2)(A) of such
17 Code (relating to energy percentage) is amended to
18 read as follows:

19 “(A) IN GENERAL.—The energy percent-
20 age is—

21 “(i) in the case of energy-efficient
22 building property, $33\frac{1}{3}$ percent, and

23 “(ii) in the case of any other energy
24 property, 10 percent.”.

25 (4) CONFORMING AMENDMENTS.—

1 (A) Section 29(b)(3)(A)(i)(III) of such
 2 Code is amended by striking “section
 3 48(a)(4)(C)” and inserting “section
 4 48(a)(5)(C)”.

5 (B) Section 48(a)(1) of such Code is
 6 amended by inserting “except as provided in
 7 paragraph (4)(B),” before “the energy”.

8 (5) EFFECTIVE DATE.—The amendments made
 9 by this subsection shall apply to property placed in
 10 service after December 31, 2001, under rules similar
 11 to the rules of section 48(m) of the Internal Revenue
 12 Code of 1986 (as in effect on the day before the
 13 date of the enactment of the Revenue Reconciliation
 14 Act of 1990).

15 (b) NONBUSINESS PROPERTY.—

16 (1) IN GENERAL.—Subpart A of part IV of sub-
 17 chapter A of chapter 1 of the Internal Revenue Code
 18 of 1986 (relating to nonrefundable personal credits)
 19 is amended by inserting after section 25A the fol-
 20 lowing new section:

21 **“SEC. 25B. NONBUSINESS ENERGY-EFFICIENT BUILDING**
 22 **PROPERTY.**

23 “(a) CREDIT ALLOWED.—

24 “(1) IN GENERAL.—In the case of an indi-
 25 vidual, there shall be allowed as a credit against the

1 tax imposed by this chapter for the taxable year an
2 amount equal to the nonbusiness energy-efficient
3 building property expenditures which are paid or in-
4 curred during such year.

5 “(2) LIMITATION.—The credit allowed under
6 paragraph (1) with respect to property placed in
7 service by the taxpayer during the taxable year shall
8 not exceed an amount equal to the lesser of—

9 “(A) $33\frac{1}{3}$ percent of the basis of such
10 property, or

11 “(B) \$1,000 for each kilowatt of capacity
12 of such property.

13 “(b) NONBUSINESS ENERGY-EFFICIENT BUILDING
14 PROPERTY EXPENDITURES.—For purposes of this
15 section—

16 “(1) IN GENERAL.—The term ‘nonbusiness en-
17 ergy-efficient building property expenditures’ means
18 expenditures made by the taxpayer for nonbusiness
19 energy-efficient building property installed on or in
20 connection with a dwelling unit—

21 “(A) which is located in the United States,
22 and

23 “(B) which is used by the taxpayer as a
24 residence.

1 Such term includes expenditures for labor costs
2 properly allocable to the onsite preparation, assem-
3 bly, or original installation of the property.

4 “(2) NONBUSINESS ENERGY-EFFICIENT BUILD-
5 ING PROPERTY.—The term ‘nonbusiness energy-effi-
6 cient building property’ means energy-efficient build-
7 ing property (as defined in section 48(a)(4)) if—

8 “(A) the original use of such property com-
9 mences with the taxpayer, and

10 “(B) such property meets the standards (if
11 any) applicable to such property under section
12 48(a)(3).

13 “(c) SPECIAL RULES.—

14 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
15 HOUSING CORPORATION.—In the case of an indi-
16 vidual who is a tenant-stockholder (as defined in sec-
17 tion 216) in a cooperative housing corporation (as
18 defined in such section), such individual shall be
19 treated as having made his tenant-stockholder’s pro-
20 portionate share (as defined in section 216(b)(3)) of
21 any expenditures of such corporation.

22 “(2) CONDOMINIUMS.—

23 “(A) IN GENERAL.—In the case of an indi-
24 vidual who is a member of a condominium man-
25 agement association with respect to a condo-

1 minium which the individual owns, such indi-
 2 vidual shall be treated as having made his pro-
 3 portionate share of any expenditures of such as-
 4 sociation.

5 “(B) CONDOMINIUM MANAGEMENT ASSO-
 6 CIATION.—For purposes of this paragraph, the
 7 term ‘condominium management association’
 8 means an organization which meets the require-
 9 ments of paragraph (1) of section 528(c) (other
 10 than subparagraph (E) thereof) with respect to
 11 a condominium project substantially all of the
 12 units of which are used as residences.

13 “(3) ALLOCATION IN CERTAIN CASES.—If less
 14 than 80 percent of the use of an item is for nonbusi-
 15 ness purposes, only that portion of the expenditures
 16 for such item which is properly allocable to use for
 17 nonbusiness purposes shall be taken into account.

18 “(4) WHEN EXPENDITURE MADE; AMOUNT OF
 19 EXPENDITURE.—

20 “(A) IN GENERAL.—Except as provided in
 21 subparagraph (B), an expenditure with respect
 22 to an item shall be treated as made when the
 23 original installation of the item is completed.

24 “(B) EXPENDITURES PART OF BUILDING
 25 CONSTRUCTION.—In the case of an expenditure

1 in connection with the construction or recon-
2 struction of a structure, such expenditure shall
3 be treated as made when the original use of the
4 constructed or reconstructed structure by the
5 taxpayer begins.

6 “(C) AMOUNT.—The amount of any ex-
7 penditure shall be the cost thereof.

8 “(5) PROPERTY FINANCED BY SUBSIDIZED EN-
9 ERGY FINANCING.—For purposes of determining the
10 amount of nonbusiness energy-efficient building
11 property expenditures made by any individual with
12 respect to any dwelling unit, there shall not be taken
13 into account expenditures which are made from sub-
14 sidized energy financing (as defined in section
15 48(a)(5)(A)).

16 “(d) BASIS ADJUSTMENTS.—For purposes of this
17 subtitle, if a credit is allowed under this section for any
18 expenditure with respect to any property, the increase in
19 the basis of such property which would (but for this sub-
20 section) result from such expenditure shall be reduced by
21 the amount of the credit so allowed.

22 “(e) TERMINATION.—This section shall not apply to
23 any expenditure made after December 31, 2006.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Subsection (a) of section 1016 of such
2 Code is amended by striking “and” at the end
3 of paragraph (26), by striking the period at the
4 end of paragraph (27) and inserting “; and”,
5 and by adding at the end the following new
6 paragraph:

7 “(28) to the extent provided in section 25B(d),
8 in the case of amounts with respect to which a credit
9 has been allowed under section 25B.”.

10 (B) The table of sections for subpart A of
11 part IV of subchapter A of chapter 1 of such
12 Code is amended by inserting after the item re-
13 lating to section 25A the following new item:

“Sec. 25B. Nonbusiness energy-efficient building property.”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply to expenditures made
16 after December 31, 2001.

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