

110TH CONGRESS  
1ST SESSION

# S. 1601

To lower the effective tax rate on investment in necessary energy infrastructure and credits for renewable energy, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 12, 2007

Mr. HAGEL introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To lower the effective tax rate on investment in necessary energy infrastructure and credits for renewable energy, and for other purposes.

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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Energy Infrastructure Tax Reform and Incentives Act  
6       of 2007”.

7       (b) **TABLE OF CONTENTS.**—The table of contents for  
8       this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 101. Income and gains from electricity transmission systems treated as qualifying income for publicly traded partnerships.

- Sec. 102. Five-year applicable recovery period for depreciation of qualified energy management devices.
- Sec. 103. Special depreciation allowance for cellulosic biomass ethanol plant property.
- Sec. 104. Coal-to-liquid facilities.
- Sec. 105. Dedicated ethanol pipelines treated as 15-year property.
- Sec. 106. Credit for pollution abatement equipment.
- Sec. 107. Modifications relating to clean renewable energy bonds.
- Sec. 108. Extension of renewable energy production tax credit.
- Sec. 109. Energy credit extended to green buildings.

1 **SEC. 101. INCOME AND GAINS FROM ELECTRICITY TRANS-**  
 2 **MISSION SYSTEMS TREATED AS QUALIFYING**  
 3 **INCOME FOR PUBLICLY TRADED PARTNER-**  
 4 **SHIPS.**

5 (a) IN GENERAL.—Section 7704(d)(1) of the Inter-  
 6 nal Revenue Code of 1986 (defining qualifying income) is  
 7 amended by redesignating subparagraphs (F) and (G) as  
 8 subparagraphs (G) and (H), respectively, and by inserting  
 9 after subparagraph (E) the following new subparagraph:

10 “(F) income and gains from the trans-  
 11 mission of electricity at 69 or more kilovolts  
 12 through any property the original use of which  
 13 commences after December 31, 2006,”.

14 (b) EFFECTIVE DATE.—The amendments made by  
 15 this section shall take effect on the date of the enactment  
 16 of this Act, in taxable years ending after such date.

1 **SEC. 102. FIVE-YEAR APPLICABLE RECOVERY PERIOD FOR**  
 2 **DEPRECIATION OF QUALIFIED ENERGY MAN-**  
 3 **AGEMENT DEVICES.**

4 (a) IN GENERAL.—Section 168(e)(3)(B) of the Inter-  
 5 nal Revenue Code of 1986 (defining 5-year property) is  
 6 amended by striking “and” at the end of clause (v), by  
 7 striking the period at the end of clause (vi)(III) and in-  
 8 serting “, and”, and by inserting after clause (vi) the fol-  
 9 lowing new clause:

10 “(vii) any qualified energy manage-  
 11 ment device.”.

12 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-  
 13 MENT DEVICE.—Section 168(i) of such Code (relating to  
 14 definitions and special rules) is amended by inserting at  
 15 the end the following new paragraph:

16 “(18) QUALIFIED ENERGY MANAGEMENT DE-  
 17 VICE.—

18 “(A) IN GENERAL.—The term ‘qualified  
 19 energy management device’ means any energy  
 20 management device which is placed in service  
 21 by a taxpayer who is a supplier of electric en-  
 22 ergy or a provider of electric energy services.

23 “(B) ENERGY MANAGEMENT DEVICE.—  
 24 For purposes of subparagraph (A), the term  
 25 ‘energy management device’ means any time-  
 26 based meter and related communications equip-

1           ment which is capable of being used by the tax-  
2           payer as part of a system that—

3                   “(i) measures and records electricity  
4                   usage data on a time-differentiated basis  
5                   in at least 24 separate time segments per  
6                   day,

7                   “(ii) provides for the exchange of in-  
8                   formation between supplier or provider and  
9                   the customer’s energy management device  
10                  in support of time-based rates or other  
11                  forms of demand response, and

12                  “(iii) provides data to such supplier or  
13                  provider so that the supplier or provider  
14                  can provide energy usage information to  
15                  customers electronically.”.

16           (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to property placed in service in  
18 taxable years ending after the date of the enactment of  
19 this Act.

20 **SEC. 103. SPECIAL DEPRECIATION ALLOWANCE FOR CEL-**  
21 **LULOSIC BIOMASS ETHANOL PLANT PROP-**  
22 **ERTY.**

23           (a) IN GENERAL.—Section 168 of the Internal Rev-  
24 enue Code of 1986 (relating to accelerated cost recovery  
25 system) is amended by adding at the end the following:

1       “(1) SPECIAL ALLOWANCE FOR CELLULOSIC BIO-  
2 MASS ETHANOL PLANT PROPERTY.—

3               “(1) ADDITIONAL ALLOWANCE.—In the case of  
4 any qualified cellulosic biomass ethanol plant prop-  
5 erty—

6               “(A) the depreciation deduction provided  
7 by section 167(a) for the taxable year in which  
8 such property is placed in service shall include  
9 an allowance equal to 50 percent of the ad-  
10 justed basis of such property, and

11              “(B) the adjusted basis of such property  
12 shall be reduced by the amount of such deduc-  
13 tion before computing the amount otherwise al-  
14 lowable as a depreciation deduction under this  
15 chapter for such taxable year and any subse-  
16 quent taxable year.

17       “(2) QUALIFIED CELLULOSIC BIOMASS ETH-  
18 ANOL PLANT PROPERTY.—

19              “(A) IN GENERAL.—The term ‘qualified  
20 cellulosic biomass ethanol plant property’ means  
21 property of a character subject to the allowance  
22 for depreciation—

23              “(i) which is used in the United  
24 States solely to produce cellulosic biomass  
25 ethanol,

1           “(ii) the original use of which com-  
2 mences with the taxpayer after the date of  
3 the enactment of this subsection,

4           “(iii) which has a nameplate capacity  
5 of 100,000,000 gallons per year of cel-  
6 lulosic biomass ethanol,

7           “(iv) which is acquired by the tax-  
8 payer by purchase (as defined in section  
9 179(d)) after the date of the enactment of  
10 this subsection, but only if no written bind-  
11 ing contract for the acquisition was in ef-  
12 fect on or before the date of the enactment  
13 of this subsection, and

14           “(v) which is placed in service by the  
15 taxpayer before January 1, 2013.

16           “(B) EXCEPTIONS.—

17           “(i) ALTERNATIVE DEPRECIATION  
18 PROPERTY.—Such term shall not include  
19 any property described in section  
20 168(k)(2)(D)(i).

21           “(ii) TAX-EXEMPT BOND-FINANCED  
22 PROPERTY.—Such term shall not include  
23 any property any portion of which is fi-  
24 nanced with the proceeds of any obligation

1 the interest on which is exempt from tax  
2 under section 103.

3 “(iii) ELECTION OUT.—If a taxpayer  
4 makes an election under this subparagraph  
5 with respect to any class of property for  
6 any taxable year, this subsection shall not  
7 apply to all property in such class placed  
8 in service during such taxable year.

9 “(3) CELLULOSIC BIOMASS ETHANOL.—For  
10 purposes of this subsection, the term ‘cellulosic bio-  
11 mass ethanol’—

12 “(A) means ethanol derived from any  
13 lignocellulosic or hemicellulosic matter that is  
14 available on a renewable or recurring basis, in-  
15 cluding—

16 “(i) dedicated energy crops and trees,

17 “(ii) wood and wood residues,

18 “(iii) plants,

19 “(iv) grasses,

20 “(v) agricultural residues,

21 “(vi) fibers,

22 “(vii) animal wastes and other waste  
23 materials, and

24 “(viii) municipal and solid waste, and

1           “(B) includes any ethanol produced in fa-  
2           cilities where animal wastes or other waste ma-  
3           terials are digested or otherwise used to dis-  
4           place 90 percent or more of the fossil fuel nor-  
5           mally used in the production of ethanol.

6           “(4) SPECIAL RULES.—For purposes of this  
7           subsection, rules similar to the rules of subpara-  
8           graph (E) of section 168(k)(2) shall apply, except  
9           that such subparagraph shall be applied—

10           “(A) by substituting ‘the date of the enact-  
11           ment of subsection (l)’ for ‘September 10,  
12           2001’ each place it appears therein,

13           “(B) by substituting ‘January 1, 2013’ for  
14           ‘January 1, 2005’ in clause (i) thereof, and

15           “(C) by substituting ‘qualified cellulosic  
16           biomass ethanol plant property’ for ‘qualified  
17           property’ in clause (iv) thereof.

18           “(5) ALLOWANCE AGAINST ALTERNATIVE MIN-  
19           IMUM TAX.—For purposes of this subsection, rules  
20           similar to the rules of section 168(k)(2)(G) shall  
21           apply.

22           “(6) RECAPTURE.—For purposes of this sub-  
23           section, rules similar to the rules under section  
24           179(d)(10) shall apply with respect to any qualified  
25           cellulosic biomass ethanol plant property which

1 ceases to be qualified cellulosic biomass ethanol  
2 plant property.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act, in taxable years  
6 ending after such date.

7 **SEC. 104. COAL-TO-LIQUID FACILITIES.**

8 (a) **IN GENERAL.**—Section 168 of the Internal Rev-  
9 enue Code of 1986 (relating to accelerated cost recovery  
10 system), as amended by this Act, is amended by adding  
11 at the end the following:

12 “(m) **SPECIAL ALLOWANCE FOR COAL-TO-LIQUID**  
13 **PLANT PROPERTY.**—

14 “(1) **ADDITIONAL ALLOWANCE.**—In the case of  
15 any qualified coal-to-liquid plant property—

16 “(A) the depreciation deduction provided  
17 by section 167(a) for the taxable year in which  
18 such property is placed in service shall include  
19 an allowance equal to 50 percent of the ad-  
20 justed basis of such property, and

21 “(B) the adjusted basis of such property  
22 shall be reduced by the amount of such deduc-  
23 tion before computing the amount otherwise al-  
24 lowable as a depreciation deduction under this

1 chapter for such taxable year and any subse-  
2 quent taxable year.

3 “(2) QUALIFIED COAL-TO-LIQUID PLANT PROP-  
4 ERTY.—

5 “(A) IN GENERAL.—The term ‘qualified  
6 coal-to-liquid plant property’ means property of  
7 a character subject to the allowance for depre-  
8 ciation—

9 “(i) which is part of a commercial-  
10 scale project that converts coal to 1 or  
11 more liquid or gaseous transportation fuel  
12 that demonstrates the capture, and seques-  
13 tration or disposal or use of, the carbon di-  
14 oxide produced in the conversion process,  
15 and that, on the basis of carbon dioxide se-  
16 questration plan prepared by the applicant,  
17 is certified by the Administrator of the En-  
18 vironmental Protection Agency, in con-  
19 sultation with the Secretary of Energy, as  
20 producing fuel with life cycle carbon diox-  
21 ide emissions at or below the average life-  
22 cycle carbon dioxide emissions for the same  
23 type of fuel produced at traditional petro-  
24 leum based facilities with similar annual  
25 capacities,

1 “(ii) which is used in the United  
2 States solely to produce coal-to-liquid fuels,

3 “(iii) the original use of which com-  
4 mences with the taxpayer after the date of  
5 the enactment of this subsection,

6 “(iv) which has a nameplate capacity  
7 of 30,000 barrels per day production of  
8 coal-to-liquid fuels;

9 “(v) which is acquired by the taxpayer  
10 by purchase (as defined in section 179(d))  
11 after the date of the enactment of this sub-  
12 section, but only if no written binding con-  
13 tract for the acquisition was in effect on or  
14 before the date of the enactment of this  
15 subsection, and

16 “(vi) which is placed in service by the  
17 taxpayer before January 1, 2013.

18 “(B) EXCEPTIONS.—

19 “(i) ALTERNATIVE DEPRECIATION  
20 PROPERTY.—Such term shall not include  
21 any property described in section  
22 168(k)(2)(D)(i).

23 “(ii) TAX-EXEMPT BOND-FINANCED  
24 PROPERTY.—Such term shall not include  
25 any property any portion of which is fi-

1           nanced with the proceeds of any obligation  
2           the interest on which is exempt from tax  
3           under section 103.

4           “(iii) ELECTION OUT.—If a taxpayer  
5           makes an election under this subparagraph  
6           with respect to any class of property for  
7           any taxable year, this subsection shall not  
8           apply to all property in such class placed  
9           in service during such taxable year.

10          “(3) SPECIAL RULES.—For purposes of this  
11          subsection, rules similar to the rules of subpara-  
12          graph (E) of section 168(k)(2) shall apply, except  
13          that such subparagraph shall be applied—

14               “(A) by substituting ‘the date of the enact-  
15               ment of subsection (l)’ for ‘September 10,  
16               2001’ each place it appears therein,

17               “(B) by substituting ‘January 1, 2013’ for  
18               ‘January 1, 2005’ in clause (i) thereof, and

19               “(C) by substituting ‘qualified coal-to-liq-  
20               uid plant property’ for ‘qualified property’ in  
21               clause (iv) thereof.

22          “(4) ALLOWANCE AGAINST ALTERNATIVE MIN-  
23          IMUM TAX.—For purposes of this subsection, rules  
24          similar to the rules of section 168(k)(2)(G) shall  
25          apply.

1           “(5) RECAPTURE.—For purposes of this sub-  
2           section, rules similar to the rules under section  
3           179(d)(10) shall apply with respect to any qualified  
4           coal-to-liquid plant property which ceases to be  
5           qualified coal-to-liquid plant property.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7           this subsection shall apply to property placed in service  
8           after the date of the enactment of this Act, in taxable  
9           years ending after such date.

10   **SEC. 105. DEDICATED ETHANOL PIPELINES TREATED AS 15-**  
11                           **YEAR PROPERTY.**

12           (a) IN GENERAL.—Section 168(e)(3)(E) of the Inter-  
13           nal Revenue Code of 1986 (defining 15-year property), is  
14           amended by striking “and” at the end of clause (vii), by  
15           striking the period at the end of clause (viii) and by insert-  
16           ing “, and”, and by adding at the end the following new  
17           clause:

18                           “(ix) any dedicated ethanol distribu-  
19                           tion line the original use of which com-  
20                           mences with the taxpayer after August 1,  
21                           2007, and which is placed in service before  
22                           January 1, 2013.”.

23           (b) ALTERNATIVE SYSTEM.—The table contained in  
24           section 168(g)(3)(B) of such Code (relating to special rule  
25           for certain property assigned to classes) is amended by

1 inserting after the item relating to subparagraph (E)(viii)  
2 the following new item:

“(E)(ix) ..... 35.”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by  
5 this section shall apply to property placed in service  
6 after August 1, 2007.

7 (2) EXCEPTION.—The amendments made by  
8 this section shall not apply to any property with re-  
9 spect to which the taxpayer or related party has en-  
10 tered into a binding contract for the construction  
11 thereof on or before August 1, 2007, or, in the case  
12 of self-constructed property, has started construction  
13 on or before such date.

14 **SEC. 106. CREDIT FOR POLLUTION ABATEMENT EQUIP-**  
15 **MENT.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-  
17 chapter A of chapter 1 of the Internal Revenue Code of  
18 1986 is amended by inserting after section 45N the fol-  
19 lowing new section:

20 **“SEC. 45O. CREDIT FOR POLLUTION ABATEMENT EQUIP-**  
21 **MENT.**

22 “(a) GENERAL RULE.—For purposes of section 38,  
23 the pollution abatement equipment credit for any taxable  
24 year is an amount equal to 30 percent of the costs of any

1 qualified pollution abatement equipment property placed  
2 in service by the taxpayer during the taxable year.

3 “(b) LIMITATION.—The credit allowed under sub-  
4 section (a) for any taxable year with respect to any quali-  
5 fied pollution abatement equipment property shall not ex-  
6 ceed—

7 “(1) \$50,000,000 in the case of a property of  
8 a character subject an allowance for depreciation  
9 provided in section 167, and

10 “(2) \$30,000,000 in any other case.

11 “(c) QUALIFIED POLLUTION ABATEMENT EQUIP-  
12 MENT PROPERTY.—For purposes of this section, the term  
13 ‘qualified pollution abatement equipment property’ means  
14 pollution abatement equipment—

15 “(1) which is part of a unit or facility which ei-  
16 ther—

17 “(A) utilizes technologies that meet rel-  
18 evant Federal and State clean air requirements  
19 applicable to the unit or facility, including being  
20 adequately demonstrated for purposes of section  
21 111 of the Clean Air Act (42 U.S.C. 7411),  
22 achievable for purposes of section 169 of that  
23 Act (42 U.S.C. 7479), or achievable in practice  
24 for purposes of section 171 of that Act (42  
25 U.S.C. 7501, or

1           “(B) utilizes equipment or processes that  
2           exceed relevant Federal or State clean air re-  
3           quirements applicable to the unit or facility by  
4           achieving greater efficiency or environmental  
5           performance,

6           “(2) which is installed on a voluntary basis and  
7           not as a result of an agreement with a Federal or  
8           State agency or required as a decree from a judicial  
9           decision, and

10           “(3) with respect to which an election under  
11           section 169 is not in effect.”.

12           (b) CREDIT TREATED AS PART OF GENERAL BUSI-  
13           NESS CREDIT.—Section 38(b) of such Code is amended  
14           by striking “plus” at the end of paragraph (30), by strik-  
15           ing the period at the end of paragraph (31) and inserting  
16           “, plus”, and by adding at the end the following new para-  
17           graph:

18           “(32) the pollution abatement equipment credit  
19           determined under section 45O(a).”.

20           (c) CLERICAL AMENDMENT.—The table of sections  
21           for subpart D of part IV of subchapter A of chapter 1  
22           of such Code is amended by inserting after the item relat-  
23           ing to section 45N the following new item:

          “Sec. 45O. Credit for pollution abatement equipment.”.

24           (d) EFFECTIVE DATE.—The amendments made by  
25           this section shall apply to expenditures made after the

1 date of the enactment of this Act, in taxable years ending  
2 after such date.

3 **SEC. 107. MODIFICATIONS RELATING TO CLEAN RENEW-**  
4 **ABLE ENERGY BONDS.**

5 (a) CLEAN RENEWABLE ENERGY BOND.—Paragraph  
6 (1) of section 54(d) of the Internal Revenue Code of 1986  
7 (defining clean renewable energy bond) is amended—

8 (1) in subparagraph (A), by striking “pursu-  
9 ant” and all that follows through “subsection  
10 (f)(2)”,

11 (2) in subparagraph (B), by striking “95 per-  
12 cent or more of the proceeds” and inserting “90 per-  
13 cent or more of the net proceeds”, and

14 (3) in subparagraph (D), by striking “sub-  
15 section (h)” and inserting “subsection (g)”.

16 (b) QUALIFIED PROJECT.—Subparagraph (A) of sec-  
17 tion 54(d)(2) of such Code (defining qualified project) is  
18 amended to read as follows:

19 “(A) IN GENERAL.—The term ‘qualified  
20 project’ means any qualified facility (as deter-  
21 mined under section 45(d) without regard to  
22 paragraphs (8) and (10) thereof and to any  
23 placed in service requirement) owned by a  
24 qualified borrower and also without regard to  
25 the following:

1           “(i) In the case of a qualified facility  
2           described in section 45(d)(9) (regarding in-  
3           cremental hydropower production), any de-  
4           termination of incremental hydropower  
5           production and related calculations shall be  
6           determined by the qualified borrower based  
7           on a methodology that meets Federal En-  
8           ergy Regulatory Commission standards.

9           “(ii) In the case of a qualified facility  
10          described in section 45(d)(9) (regarding  
11          hydropower production), the facility need  
12          not be licensed by the Federal Energy  
13          Regulation Commission if the facility,  
14          when constructed, will meet Federal En-  
15          ergy Regulatory Commission licensing re-  
16          quirements and other applicable environ-  
17          mental, licensing, and regulatory require-  
18          ments.”.

19          (c) REIMBURSEMENT.—Subparagraph (C) of section  
20          54(d)(2) of such Code (relating to reimbursement) is  
21          amended to read as follows:

22                 “(C) REIMBURSEMENT.—For purposes of  
23                 paragraph (1)(B), proceeds of a clean renew-  
24                 able energy bond may be issued to reimburse a  
25                 qualified borrower for amounts paid after the

1           date of the enactment of this subparagraph in  
2           the same manner as proceeds of State and local  
3           government obligations the interest upon which  
4           is exempt from tax under section 103.”.

5           (d) CHANGE IN USE.—Subparagraph (D) of section  
6 54(d)(2) of such Code (relating to treatment of changes  
7 in use) is amended by striking “or qualified issuer”.

8           (e) MAXIMUM TERM.—Paragraph (2) of section  
9 54(e) of such Code (relating to maximum term) is amend-  
10 ed by striking “without regard to the requirements of sub-  
11 section (1)(6) and”.

12          (f) REPEAL OF LIMITATION ON AMOUNT OF BONDS  
13 DESIGNATED.—Section 54 of such Code is amended by  
14 striking subsection (f) (relating to repeal of limitation on  
15 amount of bonds designated).

16          (g) SPECIAL RULES RELATING TO EXPENDI-  
17 TURES.—Subsection (h) of section 54 of such Code (relat-  
18 ing to special rules relating to expenditures) is amended—

19           (1) in paragraph (1)(A), by striking “95 per-  
20 cent of the proceeds” and inserting “90 percent of  
21 the net proceeds”,

22           (2) in paragraph (1)(B)—

23                (A) by striking “10 percent of the pro-  
24 ceeds” and inserting “5 percent of the net pro-  
25 ceeds”, and

1 (B) by striking “the 6-month period begin-  
2 ning on” both places it appears and inserting  
3 “1 year of”,

4 (3) in paragraph (1)(C), by inserting “net” be-  
5 fore “proceeds”, and

6 (4) in paragraph (3), by striking “95 percent of  
7 the proceeds” and inserting “90 percent of the net  
8 proceeds”.

9 (h) REPEAL OF SPECIAL RULES RELATING TO ARBI-  
10 TRAGE.—Section 54 of such Code is amended by striking  
11 subsection (i) (relating to repeal of special rules relating  
12 to arbitration).

13 (i) PUBLIC POWER ENTITY.—Subsection (j) of sec-  
14 tion 54 of such Code (defining cooperative electric com-  
15 pany; qualified energy tax credit bond lender; govern-  
16 mental body; qualified borrower) is amended—

17 (1) by redesignating paragraphs (4) and (5) as  
18 paragraphs (5) and (6), respectively,

19 (2) by inserting after paragraph (3) the fol-  
20 lowing new paragraph:

21 “(4) PUBLIC POWER ENTITY.—The term ‘public  
22 power entity’ means a State utility with a service ob-  
23 ligation, as such terms are defined in section 217 of  
24 the Federal Power Act (as in effect on the date of  
25 enactment of this paragraph).”

1 (3) in paragraph (5), as so redesignated—

2 (A) by striking “or” at the end of subpara-  
3 graph (B),

4 (B) by striking the period at the end of  
5 subparagraph (C) and inserting “, or”, and

6 (C) by adding at the end the following new  
7 subparagraph:

8 “(D) a public power entity.”, and

9 (4) in paragraph (6), as so redesignated—

10 (A) by striking “or” at the end of subpara-  
11 graph (A),

12 (B) by striking the period at the end of  
13 subparagraph (B) and inserting “, or”, and

14 (C) by adding at the end the following new  
15 subparagraph:

16 “(C) a public power entity.”.

17 (j) REPEAL OF RATABLE PRINCIPAL AMORTIZATION  
18 REQUIREMENT.—Subsection (l) of section 54 of such  
19 Code (relating to other definitions and special rules) is  
20 amended by striking paragraph (5) and redesignating  
21 paragraph (6) as paragraph (5).

22 (k) NET PROCEEDS.—Subsection (l) of section 54 of  
23 such Code (relating to other definitions and special rules),  
24 as amended by subsection (j), is amended by redesignating  
25 paragraphs (2), (3), (4), and (5) as paragraphs (4), (5),

1 (6), and (7), respectively, and by inserting after paragraph  
2 (1) the following new paragraphs:

3           “(2) NET PROCEEDS.—The term ‘net proceeds’  
4           means, with respect to an issue, the proceeds of such  
5           issue reduced by amounts in a reasonably required  
6           reserve or replacement fund.

7           “(3) LIMITATION ON AMOUNT IN RESERVE OR  
8           REPLACEMENT FUND WHICH MAY BE FINANCED BY  
9           ISSUE.—A bond issued as part of an issue shall not  
10          be treated as a clean renewable energy bond if the  
11          amount of the proceeds from the sale of such issue  
12          which is part of any reserve or replacement fund ex-  
13          ceeds 10 percent of the proceeds of the issue (or  
14          such higher amount which the issuer establishes is  
15          necessary to the satisfaction of the Secretary).”.

16          (l) OTHER SPECIAL RULES.—Subsection (l) of sec-  
17          tion 54 of such Code ((relating to other definitions and  
18          special rules), as amended by subsections (j) and (k), is  
19          amended by adding at the end the following new para-  
20          graphs:

21               “(8) CREDITS MAY BE SEPARATED.—There  
22               may be a separation (including at issuance) of the  
23               ownership of a clean renewable energy bond and the  
24               entitlement to the credit under this section with re-  
25               spect to such bond. In case of any such separation,

1 the credit under this section shall be allowed to the  
2 person who on the credit allowance date holds the  
3 instrument evidencing the entitlement to the credit  
4 and not to the holder of the bond.

5 “(9) TREATMENT FOR ESTIMATED TAX PUR-  
6 POSES.—Solely for the purposes of sections 6654  
7 and 6655, the credit allowed by this section to a tax-  
8 payer by reason of holding a qualified energy tax  
9 credit bond on a credit allowance date (or the credit  
10 in the case of a separation as provided in paragraph  
11 (8)) shall be treated as if it were a payment of esti-  
12 mated tax made by the taxpayer on such date.

13 “(10) CARRYBACK AND CARRYFORWARD OF UN-  
14 USED CREDITS.—If the sum of the credit exceeds  
15 the limitation imposed by subsection (c) for any tax-  
16 able year, any credits may be applied in a manner  
17 similar to the rules set forth in section 39.”.

18 (m) TERMINATION.—Subsection (m) of section 54 of  
19 such Code (relating to termination) is amended by striking  
20 “2008” and inserting “2013”.

21 (n) CLERICAL REDESIGNATIONS.—Section 54 of such  
22 Code, as amended by the preceding provisions of this sec-  
23 tion, is amended by redesignating subsections (g), (h), (j),  
24 (k), (l), and (m) as subsections (f), (g), (h), (i), (j), and  
25 (k), respectively.

1 (o) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to obligations issued after the date  
3 of the enactment of this Act.

4 **SEC. 108. EXTENSION OF RENEWABLE ENERGY PRODUC-**  
5 **TION TAX CREDIT.**

6 (a) IN GENERAL.—Section 45 of the Internal Rev-  
7 enue Code of 1986 is amended—

8 (1) by striking “10-year period beginning on  
9 the date the facility was originally placed in service,”  
10 in subsection (a)(2)(A)(ii) and inserting “5-year pe-  
11 riod beginning on the date the facility was originally  
12 placed in service,”

13 (2) by striking “in subsection (a)(2)(A)(ii).” in  
14 subsection (b)(4)(B)(i) and inserting “beginning on  
15 the date the facility was originally placed in serv-  
16 ice.”

17 (3) by striking “in subsection (a)(2)(A)(ii).” in  
18 subsection (b)(4)(B)(ii) and inserting “beginning on  
19 the date the facility was originally placed in serv-  
20 ice.”, and

21 (4) by striking “January 1, 2009” each place  
22 it appears in subsection (d) and inserting “January  
23 1, 2014”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to property placed in service after  
 3 the date of the enactment of this Act.

4 **SEC. 109. ENERGY CREDIT EXTENDED TO GREEN BUILD-**  
 5 **INGS.**

6 (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-  
 7 nal Revenue Code of 1986 (defining energy property) is  
 8 amended—

9 (1) by striking “or” at the end of clause (iii),  
 10 (2) by inserting after clause (iv) the following  
 11 new clauses:

12 “(v) thermal storage system deter-  
 13 mined by the Secretary of Energy through  
 14 a site specific feasibility study which allows  
 15 for a reduction in energy use of 10 percent  
 16 per year compared with conventional tech-  
 17 nologies, or

18 “(vi) daylight dimming technologies  
 19 determined by the Secretary of Energy,”.

20 (b) CREDIT RATE.—Section 48(a)(2)(A) of such  
 21 Code (relating to energy percentage) is amended—

22 (1) by striking “and” at the end of clause  
 23 (i)(III),

24 (2) by redesignating clause (ii) as clause (iii),  
 25 and

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

3                   “(ii) 50 percent in the case of energy  
4                   property described in clause (v) or (vi) of  
5                   paragraph (3)(A), and”.

6           (c) LIMITATIONS.—Section 48 of such Code is  
7 amended by adding at the end the following new sub-  
8 section:

9           “(d) ENERGY PROPERTY FOR GREEN BUILDINGS.—

10                   “(1) THERMAL STORAGE UNIT.—In the case of  
11 energy property described in paragraph (3)(A)(v)  
12 placed in service during the taxable year, the credit  
13 otherwise determined under subsection (a)(1) for  
14 such year with respect to such property shall not ex-  
15 ceed \$500,000.

16                   “(2) DAYLIGHT DIMMING TECHNOLOGIES.—In  
17 the case of energy property described in paragraph  
18 (3)(A)(vi) placed in service during the taxable year,  
19 the credit otherwise determined under subsection  
20 (a)(1) for such year with respect to such property  
21 shall not exceed \$500,000.”.

22           (d) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to periods after the date of the  
24 enactment of this Act, in taxable years ending after such  
25 date, under rules similar to the rules of section 48(m) of

1 the Internal Revenue Code of 1986 (as in effect on the  
2 day before the date of the enactment of the Revenue Rec-  
3 onciliation Act of 1990).

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