

114TH CONGRESS  
2D SESSION

# H. R. 5350

To amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2016

Mr. HONDA (for himself, Mr. REED, Mr. GIBSON, and Mr. TAKANO) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, 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.**

4 This Act may be cited as the “Energy Storage for  
5 Grid Resilience and Modernization Act of 2016” or the  
6 “Energy Storage Act of 2016”.

1 **SEC. 2. ENERGY INVESTMENT CREDIT FOR ENERGY STOR-**  
2 **AGE PROPERTY CONNECTED TO THE GRID.**

3 (a) 30-PERCENT CREDIT ALLOWED.—Clause (i) of  
4 section 48(a)(2)(A) of the Internal Revenue Code of 1986  
5 is amended by striking “and” at the end of subclause (III)  
6 and by adding at the end the following new subclause:

7 “(V) qualified energy storage prop-  
8 erty, and”.

9 (b) QUALIFIED ENERGY STORAGE PROPERTY.—Sub-  
10 section (c) of section 48 of such Code is amended by add-  
11 ing at the end the following new paragraph:

12 “(5) QUALIFIED ENERGY STORAGE PROP-  
13 erty.—

14 “(A) IN GENERAL.—The term ‘qualified  
15 energy storage property’ means property de-  
16 scribed in subparagraph (B) that is capable of  
17 absorbing energy, storing such energy for a pe-  
18 riod of time, and thereafter dispatching such  
19 energy for the purposes of—

20 “(i) reducing demand for peak elec-  
21 trical generation,

22 “(ii) deferring or substituting for an  
23 investment in generation, transmission, or  
24 distribution assets,

25 “(iii) providing back up energy for  
26 variable generation sources,

1           “(iv) improving the reliable operation  
2 of the electrical transmission or distribu-  
3 tion grid,

4           “(v) enabling management of end-user  
5 energy consumption, or

6           “(vi) enabling the disconnection of a  
7 load from the main grid.

8           “(B) STORAGE AND USE OF ENERGY.—  
9 Property is described in this subparagraph if  
10 the property, whether centralized or distrib-  
11 uted—

12           “(i) uses mechanical, chemical, ther-  
13 mal, or electrostatic processes to store en-  
14 ergy that was generated at one time for  
15 use at a later time,

16           “(ii) stores thermal energy for direct  
17 use for heating or cooling at a later time  
18 in a manner that avoids the need to use  
19 electricity at that later time,

20           “(iii) uses mechanical, chemical, ther-  
21 mal, or electrostatic processes to store elec-  
22 tricity generated from renewable resources  
23 for use at a later time, or

24           “(iv) uses mechanical, chemical, ther-  
25 mal, or electrostatic processes to store, for

1 delivery at a later time, energy generated  
2 from mechanical processes that would oth-  
3 erwise be wasted.

4 “(C) SPECIAL RULE FOR ONSITE ENERGY  
5 STORAGE.—

6 “(i) IN GENERAL.—Property which  
7 performs its purpose primarily for onsite  
8 consumption shall not be treated as quali-  
9 fied energy storage property unless such  
10 property in aggregate—

11 “(I) has the ability to store the  
12 energy equivalent of at least 5 kilo-  
13 watt hours of energy, and

14 “(II) has the ability to have an  
15 output of the energy equivalent of 1  
16 kilowatt of electricity for a period of 5  
17 hours.

18 “(ii) LIMITATION.—In the case of  
19 qualified energy storage property described  
20 in clause (i) that is placed in service dur-  
21 ing the taxable year, the credit otherwise  
22 determined under subsection (a) for such  
23 year with respect to such property shall  
24 not exceed \$1,000,000.

25 “(D) ALLOCATION OF CREDITS.—

1           “(i) IN GENERAL.—In the case of  
2           qualified energy storage property placed in  
3           service during the taxable year, the credit  
4           otherwise determined under subsection (a)  
5           for such year with respect to such property  
6           shall not exceed the amount allocated to  
7           such project under clause (ii).

8           “(ii) NATIONAL LIMITATION AND AL-  
9           LOCATION.—There is a qualified energy  
10          storage property investment credit limita-  
11          tion of \$2,000,000,000. Such limitation  
12          shall be allocated by the Secretary among  
13          qualified energy storage property projects  
14          selected by the Secretary, in consultation  
15          with the Secretary of Energy, for taxable  
16          years beginning after the date of the enact-  
17          ment of the Energy Storage for Grid Resil-  
18          ience and Modernization Act of 2016, ex-  
19          cept that not more than \$40,000,000 shall  
20          be allocated to any project for all such tax-  
21          able years.

22          “(iii) SELECTION CRITERIA.—In mak-  
23          ing allocations under clause (ii), the Sec-  
24          retary, in consultation with the Secretary  
25          of Energy, shall select only those projects

1 which have a reasonable expectation of  
2 commercial viability, select projects rep-  
3 resenting a variety of technologies, applica-  
4 tions, and project sizes, and give priority  
5 to projects—

6 “(I) which provide the greatest  
7 increase in reliability or the greatest  
8 economic benefit,

9 “(II) which enable the greatest  
10 improvement in integration of renew-  
11 able resources into the grid,

12 “(III) which enable the greatest  
13 increase in efficiency in operation of  
14 the grid, or

15 “(IV) the owner of which has not  
16 received an allocation under this para-  
17 graph for energy storage property for  
18 a different project.

19 “(iv) DEADLINES.—

20 “(I) IN GENERAL.—If a project  
21 which receives an allocation under  
22 clause (ii) has not commenced con-  
23 struction within 2 years after the date  
24 of such allocation, such allocation  
25 shall be invalid.

1                   “(II) SPECIAL RULE FOR HYDRO-  
2                   ELECTRIC PUMPED STORAGE.—Not-  
3                   withstanding subclause (I), in the case  
4                   of a hydroelectric pumped storage  
5                   project, if such project has not re-  
6                   ceived such permits or licenses as are  
7                   determined necessary by the Sec-  
8                   retary, in consultation with the Sec-  
9                   retary of Energy, within 3 years after  
10                  the date of such allocation, begun con-  
11                  struction within 5 years after the date  
12                  of such allocation, and been placed in  
13                  service within 8 years after the date  
14                  of such allocation, such allocation  
15                  shall be invalid.

16                  “(III) SPECIAL RULE FOR COM-  
17                  PRESSED AIR ENERGY STORAGE.—  
18                  Notwithstanding subclause (I), in the  
19                  case of a compressed air energy stor-  
20                  age project, if such project has not  
21                  begun construction within 3 years  
22                  after the date of the allocation and  
23                  been placed in service within 5 years  
24                  after the date of such allocation, such  
25                  allocation shall be invalid.

1                   “(IV) EXCEPTIONS.—The Sec-  
2                   retary may extend the 2-year period  
3                   in subclause (I) or the periods de-  
4                   scribed in subclauses (II) and (III) on  
5                   a project-by-project basis if the Sec-  
6                   retary, in consultation with the Sec-  
7                   retary of Energy, determines that  
8                   there has been a good faith effort to  
9                   begin construction or to place the  
10                  project in service, whichever is appli-  
11                  cable, and that any delay is caused by  
12                  factors not in the taxpayer’s control.

13                  “(E) REVIEW AND REDISTRIBUTION.—

14                  “(i) REVIEW.—Not later than 4 years  
15                  after the date of the enactment of the En-  
16                  ergy Storage for Grid Resilience and Mod-  
17                  ernization Act of 2016, the Secretary shall  
18                  review the credits allocated under subpara-  
19                  graph (D) as of the date of such review.

20                  “(ii) REDISTRIBUTION.—Upon the re-  
21                  view described in clause (i), the Secretary  
22                  may reallocate credits allocated under sub-  
23                  paragraph (D) if the Secretary determines  
24                  that—



1                   “(I) there is an insufficient quan-  
2                   tity of qualifying applications for cer-  
3                   tification pending at the time of the  
4                   review, or

5                   “(II) any allocation made under  
6                   subparagraph (D)(ii) has been re-  
7                   voked pursuant to subparagraph  
8                   (D)(iv) because the project subject to  
9                   such allocation has been delayed.

10                   “(F) DISCLOSURE OF ALLOCATIONS.—The  
11                   Secretary shall, upon making an allocation  
12                   under subparagraph (D)(ii), publicly disclose  
13                   the identity of the applicant, the location of the  
14                   project, the energy storage project size and out-  
15                   put, and the amount of the credit with respect  
16                   to such applicant.

17                   “(G) COORDINATION.—

18                   “(i) DENIAL OF DOUBLE BENEFIT.—  
19                   The term ‘qualified energy storage prop-  
20                   erty’ does not include any property for  
21                   which a credit is allowable under any pro-  
22                   vision of this section for the taxable year  
23                   other than by reason of this paragraph.

24                   “(ii) SPECIAL RULE FOR SECTION  
25                   45.—The term ‘qualified energy storage

1 property’ shall not include any property  
2 with respect to which a credit is allowable  
3 under section 45 for the taxable year or  
4 any prior taxable year.

5 “(H) TERMINATION.—No credit shall be  
6 allocated under subparagraph (D) for any pe-  
7 riod ending after December 31, 2026.”.

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

14 **SEC. 3. ENERGY STORAGE PROPERTY CONNECTED TO THE**  
15 **GRID ELIGIBLE FOR NEW CLEAN RENEWABLE**  
16 **ENERGY BONDS.**

17 (a) IN GENERAL.—Paragraph (1) of section 54C(d)  
18 of the Internal Revenue Code of 1986 is amended to read  
19 as follows:

20 “(1) QUALIFIED RENEWABLE ENERGY FACIL-  
21 ITY.—The term ‘qualified renewable energy facility’  
22 means a facility which is—

23 “(A)(i) a qualified facility (as determined  
24 under section 45(d) without regard to para-

1 graphs (8) and (10) thereof and to any placed  
2 in service date), or

3 “(ii) a qualified energy storage property  
4 (as defined in section 48(c)(5)), and

5 “(B) owned by a public power provider, a  
6 governmental body, or a cooperative electric  
7 company.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to obligations issued after the date  
10 of the enactment of this Act.

11 **SEC. 4. CREDIT FOR RESIDENTIAL ENERGY STORAGE**  
12 **EQUIPMENT.**

13 (a) CREDIT ALLOWED.—Subsection (a) of section  
14 25D of the Internal Revenue Code of 1986 is amended  
15 by striking “and” at the end of paragraph (4), by striking  
16 the period at the end of paragraph (5) and inserting “,  
17 and”, and by adding at the end the following new para-  
18 graph:

19 “(6) 30 percent of the qualified residential en-  
20 ergy storage equipment expenditures made by the  
21 taxpayer during such taxable year.”.

22 (b) QUALIFIED RESIDENTIAL ENERGY STORAGE  
23 EQUIPMENT EXPENDITURES.—Section 25D(d) of such  
24 Code is amended by adding at the end the following new  
25 paragraph:

1           “(6) QUALIFIED RESIDENTIAL ENERGY STOR-  
2           AGE EQUIPMENT EXPENDITURES.—For purposes of  
3           this section, the term ‘qualified residential energy  
4           storage equipment expenditure’ means an expendi-  
5           ture for property—

6                   “(A) which is installed in or on a dwelling  
7                   unit located in the United States and owned  
8                   and used by the taxpayer as the taxpayer’s  
9                   principal residence (within the meaning of sec-  
10                  tion 121), or on property owned by the tax-  
11                  payer on which such a dwelling unit is located,

12                  “(B) which—

13                          “(i) provides supplemental energy to  
14                          reduce peak energy requirements, or

15                          “(ii) is designed and used primarily to  
16                          receive and store, firm, or shape variable  
17                          renewable or off-peak energy and to deliver  
18                          such energy primarily for onsite consump-  
19                          tion, and

20                  “(C) which—

21                          “(i) has the ability to store the energy  
22                          equivalent of at least 5 kilowatt hours of  
23                          energy, and

1                   “(ii) has the ability to have an output  
2                   of the energy equivalent of 1 kilowatt of  
3                   electricity for a period of 4 hours.”.

4           (c) TERMINATION.—Section 25D(g) of such Code is  
5 amended by inserting “(December 31, 2026, in the case  
6 of property described in subsection (d)(6))” after “Decem-  
7 ber 31, 2016”.

8           (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to property placed in service after  
10 the date of the enactment of this Act.

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