

106TH CONGRESS
1ST SESSION

S. 1777

To amend the Internal Revenue Code of 1986 to provide incentives for the voluntary reduction of greenhouse gas emissions and to advance global climate science and technology development.

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 1999

Mr. CRAIG (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. ENZI, and Mr. GRAMS) 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 incentives for the voluntary reduction of greenhouse gas emissions and to advance global climate science and technology development.

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 “Climate Change Tax
5 Amendments of 1999”.

1 **SEC. 2. PERMANENT TAX CREDIT FOR RESEARCH AND DE-**
 2 **VELOPMENT REGARDING GREENHOUSE GAS**
 3 **REDUCTION.**

4 (a) IN GENERAL.—Section 41(h) of the Internal Rev-
 5 enue Code of 1986 (relating to termination) is amended
 6 by adding at the end the following:

7 “(3) EXCEPTION FOR CERTAIN RESEARCH.—
 8 Paragraph (1)(B) shall not apply in the case of any
 9 qualified research expenses if the research—

10 “(A) has as 1 of its purposes the reducing
 11 or sequestering of greenhouse gases, and

12 “(B) has been reported to the Department
 13 of Energy under section 1605(b) of the Energy
 14 Policy Act of 1992.”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 subsection (a) applies with respect to amounts paid or in-
 17 curred after the date of enactment of this Act, except that
 18 such amendment shall not take effect unless the Climate
 19 Change Energy Policy Response Act is enacted into law.

20 **SEC. 3. TAX CREDIT FOR REDUCED GREENHOUSE GAS**
 21 **EMISSIONS FACILITIES.**

22 (a) ALLOWANCE OF REDUCED GREENHOUSE GAS
 23 EMISSIONS FACILITIES CREDIT.—Section 46 of the Inter-
 24 nal Revenue Code of 1986 (relating to amount of credit)
 25 is amended by striking “and” at the end of paragraph (2),

1 by striking the period at the end of paragraph (3) and
 2 inserting “, and”, and by adding at the end the following:

3 “(4) the reduced greenhouse gas emissions fa-
 4 cilities credit.”

5 (b) AMOUNT OF CREDIT.—Subpart E of part IV of
 6 subchapter A of chapter 1 of the Internal Revenue Code
 7 of 1986 (relating to rules for computing investment credit)
 8 is amended by inserting after section 48 the following:

9 **“SEC. 48A. CREDIT FOR REDUCED GREENHOUSE GAS EMIS-**
 10 **SIONS FACILITIES.**

11 “(a) IN GENERAL.—For purposes of section 46, the
 12 reduced greenhouse gas emissions facilities credit for any
 13 taxable year is the applicable percentage of the qualified
 14 investment in a reduced greenhouse gas emissions facility
 15 for such taxable year.

16 “(b) REDUCED GREENHOUSE GAS EMISSIONS FA-
 17 CILITY.—For purposes of subsection (a), the term ‘re-
 18 duced greenhouse gas emissions facility’ means a facility
 19 of the taxpayer—

20 “(1)(A) the construction, reconstruction, or
 21 erection of which is completed by the taxpayer, or

22 “(B) which is acquired by the taxpayer if the
 23 original use of such facility commences with the tax-
 24 payer,

25 “(2) the operation of which—

1 “(A) replaces the operation of a facility of
2 the taxpayer,

3 “(B) reduces greenhouse gas emissions on
4 a per unit of output basis as compared to such
5 emissions of the replaced facility, and

6 “(C) uses the same type of fuel (or com-
7 bination of the same type of fuel and biomass
8 fuel) as was used in the replaced facility,

9 “(3) with respect to which depreciation (or am-
10 ortization in lieu of depreciation) is allowable, and

11 “(4) which meets the performance and quality
12 standards (if any) which—

13 “(A) have been jointly prescribed by the
14 Secretary and the Secretary of Energy by regu-
15 lations,

16 “(B) are consistent with regulations pre-
17 scribed under section 1605(b) of the Energy
18 Policy Act of 1992, and

19 “(C) are in effect at the time of the acqui-
20 sition of the facility.

21 “(c) APPLICABLE PERCENTAGE.—For purposes of
22 subsection (a), the applicable percentage is one-half of the
23 percentage reduction in greenhouse gas emissions de-
24 scribed in subsection (b)(2) and reported and certified
25 under section 1605(b) of the Energy Policy Act of 1992.

1 “(d) QUALIFIED INVESTMENT.—For purposes of
 2 subsection (a), the term ‘qualified investment’ means, with
 3 respect to any taxable year, the basis of a reduced green-
 4 house gas emissions facility placed in service by the tax-
 5 payer during such taxable year, but only with respect to
 6 that portion of the investment attributable to providing
 7 production capacity not greater than the production ca-
 8 pacity of the facility being replaced.

9 “(e) QUALIFIED PROGRESS EXPENDITURES.—

10 “(1) INCREASE IN QUALIFIED INVESTMENT.—

11 In the case of a taxpayer who has made an election
 12 under paragraph (5), the amount of the qualified in-
 13 vestment of such taxpayer for the taxable year (de-
 14 termined under subsection (d) without regard to this
 15 subsection) shall be increased by an amount equal to
 16 the aggregate of each qualified progress expenditure
 17 for the taxable year with respect to progress expend-
 18 iture property.

19 “(2) PROGRESS EXPENDITURE PROPERTY DE-

20 FINED.—For purposes of this subsection, the term
 21 ‘progress expenditure property’ means any property
 22 being constructed by or for the taxpayer and which
 23 it is reasonable to believe will qualify as a reduced
 24 greenhouse gas emissions facility which is being con-

1 structed by or for the taxpayer when it is placed in
2 service.

3 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
4 FINED.—For purposes of this subsection—

5 “(A) SELF-CONSTRUCTED PROPERTY.—In
6 the case of any self-constructed property, the
7 term ‘qualified progress expenditures’ means
8 the amount which, for purposes of this subpart,
9 is properly chargeable (during such taxable
10 year) to capital account with respect to such
11 property.

12 “(B) NON-SELF-CONSTRUCTED PROP-
13 ERTY.—In the case of non-self-constructed
14 property, the term ‘qualified progress expendi-
15 tures’ means the amount paid during the tax-
16 able year to another person for the construction
17 of such property.

18 “(4) OTHER DEFINITIONS.—For purposes of
19 this subsection—

20 “(A) SELF-CONSTRUCTED PROPERTY.—
21 The term ‘self-constructed property’ means
22 property for which it is reasonable to believe
23 that more than half of the construction expendi-
24 tures will be made directly by the taxpayer.

1 “(B) NON-SELF-CONSTRUCTED PROP-
 2 PERTY.—The term ‘non-self-constructed prop-
 3 erty’ means property which is not self-con-
 4 structed property.

5 “(C) CONSTRUCTION, ETC.—The term
 6 ‘construction’ includes reconstruction and erec-
 7 tion, and the term ‘constructed’ includes recon-
 8 structed and erected.

9 “(D) ONLY CONSTRUCTION OF REDUCED
 10 GREENHOUSE GAS EMISSIONS FACILITY TO BE
 11 TAKEN INTO ACCOUNT.—Construction shall be
 12 taken into account only if, for purposes of this
 13 subpart, expenditures therefor are properly
 14 chargeable to capital account with respect to
 15 the property.

16 “(5) ELECTION.—An election under this sub-
 17 section may be made at such time and in such man-
 18 ner as the Secretary may by regulations prescribe.
 19 Such an election shall apply to the taxable year for
 20 which made and to all subsequent taxable years.
 21 Such an election, once made, may not be revoked ex-
 22 cept with the consent of the Secretary.”

23 (c) RECAPTURE.—Section 50(a) of the Internal Rev-
 24 enue Code of 1986 (relating to other special rules) is
 25 amended by adding at the end the following:

1 “(6) SPECIAL RULES RELATING TO REDUCED
2 GREENHOUSE GAS EMISSIONS FACILITY.—For pur-
3 poses of applying this subsection in the case of any
4 credit allowable by reason of section 48A, the fol-
5 lowing shall apply:

6 “(A) GENERAL RULE.—In lieu of the
7 amount of the increase in tax under paragraph
8 (1), the increase in tax shall be an amount
9 equal to the investment tax credit allowed under
10 section 38 for all prior taxable years with re-
11 spect to a reduced greenhouse gas emissions fa-
12 cility (as defined by section 48A(b)) multiplied
13 by a fraction whose numerator is the number of
14 years remaining to fully depreciate under this
15 title the reduced greenhouse gas emissions facil-
16 ity disposed of, and whose denominator is the
17 total number of years over which such facility
18 would otherwise have been subject to deprecia-
19 tion. For purposes of the preceding sentence,
20 the year of disposition of the reduced green-
21 house gas emissions facility property shall be
22 treated as a year of remaining depreciation.

23 “(B) PROPERTY CEASES TO QUALIFY FOR
24 PROGRESS EXPENDITURES.—Rules similar to
25 the rules of paragraph (2) shall apply in the

case of qualified progress expenditures for a reduced greenhouse gas emissions facility under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

“(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a reduced greenhouse gas emissions facility.”

(d) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following:

“(iv) the portion of the basis of any reduced greenhouse gas emissions facility attributable to any qualified investment (as defined by section 48A(d)).”

(2) Section 50(a)(4) of such Code is amended by striking “and (5)” and inserting “, (5), and (6)”.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is

1 amended by inserting after the item relating to sec-
 2 tion 48 the following:

“Sec. 48A. Credit for reduced greenhouse gas emissions facilities.”

3 (e) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to property placed in service after
 5 the date of the enactment of this Act, under rules similar
 6 to the rules of section 48(m) of the Internal Revenue Code
 7 of 1986 (as in effect on the day before the date of the
 8 enactment of the Revenue Reconciliation Act of 1990).

9 (f) STUDY OF ADDITIONAL INCENTIVES FOR VOL-
 10 UNTARY REDUCTION OF GREENHOUSE GAS EMISSIONS.—

11 (1) IN GENERAL.—The Secretary of the Treas-
 12 ury and the Secretary of Energy shall jointly study
 13 possible additional incentives for, and removal of
 14 barriers to, voluntary, non recoupable expenditures
 15 for the reduction of greenhouse gas emissions. For
 16 purposes of this subsection, an expenditure shall be
 17 considered voluntary and non recoupable if the ex-
 18 penditure is not recoupable—

19 (A) from revenues generated from the in-
 20 vestment, determined under generally accepted
 21 accounting standards (or under the applicable
 22 rate-of-return regulation, in the case of a tax-
 23 payer subject to such regulation),

1 (B) from any tax or other financial incen-
2 tive program established under Federal, State,
3 or local law, or

4 (C) pursuant to any credit-trading or other
5 mechanism established under any international
6 agreement or protocol that is in force.

7 (2) REPORT.—Within 6 months of the date of
8 enactment of this Act, the Secretary of the Treasury
9 and the Secretary of Energy shall jointly report to
10 Congress on the results of the study described in
11 paragraph (1), along with any recommendations for
12 legislative action.

13 (g) SCOPE AND IMPACT.—

14 (1) POLICY.—In order to achieve the broadest
15 response for reduction of greenhouse gas emissions
16 and to ensure that the incentives established by or
17 pursuant to this Act do not advantage one segment
18 of an industry to the disadvantage of another, it is
19 the sense of Congress that incentives for greenhouse
20 gas reductions should be available for individuals,
21 organizations, and entities, including both for-profit
22 and non-profit institutions.

23 (2) LEVEL PLAYING FIELD STUDY AND RE-
24 PORT.—

1 (A) IN GENERAL.—The Secretary of the
2 Treasury and the Secretary of Energy shall
3 jointly study possible additional measures that
4 would provide non-profit entities (such as mu-
5 nicipal utilities and energy cooperatives) with
6 economic incentives for greenhouse gas emission
7 reductions comparable to those incentives pro-
8 vided to taxpayers under the amendments made
9 to the Internal Revenue Code of 1986 by this
10 Act.

11 (B) REPORT.—Within 6 months after the
12 date of enactment of this Act, the Secretary of
13 the Treasury and the Secretary of Energy shall
14 jointly report to Congress on the results of the
15 study described in subparagraph (A), along
16 with any recommendations for legislative action.

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