

107TH CONGRESS  
1ST SESSION

# S. 1293

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

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## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2001

Mr. CRAIG (for himself and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

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

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 2001”.

1 **SEC. 2. PERMANENT TAX CREDIT FOR RESEARCH AND DE-**  
 2 **VELOPMENT REGARDING GREENHOUSE GAS**  
 3 **EMISSIONS REDUCTION, AVOIDANCE, OR SE-**  
 4 **QUESTRATION.**

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

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

11 “(A) has as one of its purposes the reduc-  
 12 ing, avoiding, or sequestering of greenhouse gas  
 13 emissions, and

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

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 subsection (a) applies with respect to amounts paid or in-  
 19 curred after the date of enactment of this Act, except that  
 20 such amendment shall not take effect unless the Climate  
 21 Change Risk Management Act of 2001 is enacted into law.

22 **SEC. 3. TAX CREDIT FOR GREENHOUSE GAS EMISSIONS FA-**  
 23 **CILITIES.**

24 (a) ALLOWANCE OF GREENHOUSE GAS EMISSIONS  
 25 FACILITIES CREDIT.—Section 46 of the Internal Revenue  
 26 Code of 1986 (relating to amount of credit) is amended

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

4 “(4) the greenhouse gas emissions facilities  
 5 credit.”.

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

10 **“SEC. 48A. CREDIT FOR GREENHOUSE GAS EMISSIONS FA-**  
 11 **CILITIES.**

12 “(a) IN GENERAL.—For purposes of section 46, the  
 13 greenhouse gas emissions facilities credit for any taxable  
 14 year is the applicable percentage of the qualified invest-  
 15 ment in a greenhouse gas emissions facility for such tax-  
 16 able year.

17 “(b) GREENHOUSE GAS EMISSIONS FACILITY.—For  
 18 purposes of subsection (a), the term ‘greenhouse gas emis-  
 19 sions facility’ means a facility 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, avoids, or sequesters green-  
4           house gas emissions on a per unit of output  
5           basis as compared to such emissions of the re-  
6           placed facility, and

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

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

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

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

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

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

22          “(c) APPLICABLE PERCENTAGE.—For purposes of  
23          subsection (a), the applicable percentage is one-half of the  
24          percentage reduction, avoidance, or sequestration of  
25          greenhouse gas emissions described in subsection (b)(2)

1 and reported and certified under section 1605(b) of the  
2 Energy Policy Act of 1992.

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

11 “(e) QUALIFIED PROGRESS EXPENDITURES.—

12 “(1) INCREASE IN QUALIFIED INVESTMENT.—

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

21 “(2) PROGRESS EXPENDITURE PROPERTY DE-

22 FINED.—For purposes of this subsection, the term

23 ‘progress expenditure property’ means any property  
24 being constructed by or for the taxpayer and which  
25 it is reasonable to believe will qualify as a green-

1 house gas emissions facility which is being con-  
 2 structed by or for the taxpayer when it is placed in  
 3 service.

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

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

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

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

21 “(A) SELF-CONSTRUCTED PROPERTY.—  
 22 The term ‘self-constructed property’ means  
 23 property for which it is reasonable to believe  
 24 that more than half of the construction expendi-  
 25 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 GREEN-  
 10                   HOUSE GAS EMISSIONS FACILITY TO BE TAKEN  
 11                   INTO ACCOUNT.—Construction shall be taken  
 12                   into account only if, for purposes of this sub-  
 13                   part, expenditures therefor are properly charge-  
 14                   able to capital account with respect to the prop-  
 15                   erty.

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 GREEN-  
 2           HOUSE GAS EMISSIONS FACILITY.—For purposes of  
 3           applying this subsection in the case of any credit al-  
 4           lowable by reason of section 48A, the following shall  
 5           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 greenhouse gas emissions facility (as  
 12                  defined by section 48A(b)) multiplied by a frac-  
 13                  tion whose numerator is the number of years  
 14                  remaining to fully depreciate under this title the  
 15                  greenhouse gas emissions facility disposed of,  
 16                  and whose denominator is the total number of  
 17                  years over which such facility would otherwise  
 18                  have been subject to depreciation. For purposes  
 19                  of the preceding sentence, the year of disposi-  
 20                  tion of the greenhouse gas emissions facility  
 21                  property shall be treated as a year of remaining  
 22                  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 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 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 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 (2)” and inserting “, (2), 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 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, AVOIDANCE, OR SEQUESTRATION  
 11 OF GREENHOUSE GAS EMISSIONS.—

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

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

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

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

10 (g) SCOPE AND IMPACT.—

11 (1) POLICY.—In order to achieve the broadest  
12 response for reduction, avoidance, or sequestration  
13 of greenhouse gas emissions and to ensure that the  
14 incentives established by or pursuant to this Act do  
15 not advantage one segment of an industry to the dis-  
16 advantage of another, it is the sense of Congress  
17 that such incentives should be available for individ-  
18 uals, organizations, and entities, including both for-  
19 profit and non-profit institutions.

20 (2) LEVEL PLAYING FIELD STUDY AND RE-  
21 PORT.—

22 (A) IN GENERAL.—The Secretary of the  
23 Treasury and the Secretary of Energy shall  
24 jointly study possible additional measures that  
25 would provide non-profit entities (such as mu-

1           municipal utilities and energy cooperatives) with  
2           economic incentives for greenhouse gas emis-  
3           sions facilities comparable to those incentives  
4           provided to taxpayers under the amendments  
5           made to the Internal Revenue Code of 1986 by  
6           this Act.

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

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