

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1203

To amend the Internal Revenue Code of 1986 to provide tax incentives for the investment in greenhouse gas intensity reduction projects, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 8, 2005

Mr. HAGEL (for himself, Mr. PRYOR, Mr. ALEXANDER, Mr. CRAIG, Mrs. DOLE, and Ms. MURKOWSKI) 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 tax incentives for the investment in greenhouse gas intensity reduction projects, 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; AMENDMENT OF CODE.**

4 (a) SHORT TITLE.—This title may be cited as the  
5 “Climate Change Technology Tax Incentives Act of  
6 2005”.

7 (b) AMENDMENT OF CODE.—Except as otherwise ex-  
8 pressly provided, whenever in this title an amendment or  
9 repeal is expressed in terms of an amendment to, or repeal

1 of, a section or other provision, the reference shall be con-  
 2 sidered to be made to a section or other provision of the  
 3 Internal Revenue Code of 1986.

4 **TITLE I—GREENHOUSE GAS IN-**  
 5 **TENSITY REDUCTION TAX IN-**  
 6 **CENTIVES**

7 **SEC. 101. GREENHOUSE GAS INTENSITY REDUCTION IN-**  
 8 **VESTMENT TAX CREDIT.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-  
 10 chapter A of chapter 1 (relating to business-related cred-  
 11 its) is amended by adding at the end the following new  
 12 section:

13 **“SEC. 45J. GREENHOUSE GAS INTENSITY REDUCTION IN-**  
 14 **VESTMENT CREDIT.**

15 “(a) ALLOWANCE OF CREDIT.—

16 “(1) IN GENERAL.—For purposes of section 38,  
 17 in the case of a taxpayer’s investment in a green-  
 18 house gas intensity reduction project approved by  
 19 the accreditation panel, the greenhouse gas intensity  
 20 reduction investment credit determined under this  
 21 section for the taxable year is an amount equal to—

22 “(A) percentage reduction in greenhouse  
 23 gas intensity certified for such project for such  
 24 year by the accreditation panel, multiplied by

1           “(B) the investment in such project during  
2           such year which is attributable, directly or indi-  
3           rectly, to the taxpayer, as determined by the ac-  
4           creditation panel.

5           “(2) AGGREGATE DOLLAR LIMITATION.—The  
6           credit determined under paragraph (1) for any tax-  
7           able year, when added to any credit allowed to the  
8           taxpayer with respect to the such project in any pre-  
9           ceding taxable year, shall not exceed 50 percent of  
10          the investment attributable to the taxpayer with re-  
11          spect to such project through such taxable year.

12          “(b) LIMITATION ON AGGREGATE CREDIT ALLOW-  
13          ABLE.—

14                 “(1) IN GENERAL.—The amount of the green-  
15                 house gas intensity reduction investment credit de-  
16                 termined under subsection (a) for any project, when  
17                 added to all such credits allowed to all taxpayers  
18                 with respect to the such project shall not exceed the  
19                 credit dollar amount allocated to such project under  
20                 this subsection by the accreditation panel from the  
21                 greenhouse gas intensity reduction investment credit  
22                 limitation for the calendar year in which such alloca-  
23                 tion is made.

24                 “(2) TIME FOR MAKING ALLOCATION.—An allo-  
25                 cation shall be taken into account under paragraph

1 (1) only if it is made not later than the close of the  
 2 calendar year in which the greenhouse gas intensity  
 3 reduction project proposal with respect to such  
 4 project is approved by the accreditation panel.

5 “(3) OVERALL LIMITATION ON AGGREGATE  
 6 CREDIT ALLOWABLE.—The accreditation panel may  
 7 allocate the aggregate credit dollar amount to any  
 8 such project for a period not to exceed a 10-year pe-  
 9 riod beginning with the calendar year described in  
 10 paragraph (2).

11 “(c) LIMITATION ON AMOUNT OF CREDITS ALLO-  
 12 CATED.—

13 “(1) IN GENERAL.—There is a greenhouse gas  
 14 intensity reduction investment credit limitation  
 15 amount for each calendar year. Such limitation  
 16 amount is—

17 “(A) \$400,000,000 for 2006,

18 “(B) \$300,000,000 for 2007,

19 “(C) \$300,000,000 for 2008,

20 “(D) \$300,000,000 for 2009,

21 “(E) \$300,000,000 for 2010, and

22 “(F) except as provided in paragraph (2),  
 23 zero thereafter.

24 “(2) CARRYOVER OF UNUSED ISSUANCE LIM-  
 25 TATION.—If for any calendar year the limitation

1 amount imposed by paragraph (1) exceeds the  
2 amount of greenhouse gas intensity reduction invest-  
3 ment credits allocated during such year, such excess  
4 shall be carried forward to the succeeding calendar  
5 year as an addition to the limitation imposed by  
6 paragraph (1).

7 “(d) GREENHOUSE GAS INTENSITY REDUCTION  
8 PROJECT; GREENHOUSE GAS INTENSITY; ACCREDITA-  
9 TION PANEL.—For purposes of this section—

10 “(1) GREENHOUSE GAS INTENSITY REDUCTION  
11 PROJECT.—The term ‘greenhouse gas intensity re-  
12 duction project’ means any project approved under  
13 this section by the accreditation panel. Such ap-  
14 proval shall be based on the following criteria:

15 “(A) The extent of the reduction in green-  
16 house gas intensity proposed for the project.

17 “(B) Improvements in system efficiency.

18 “(C) In the case of projects located outside  
19 the United States, the extent of technology  
20 transfer.

21 “(D) The existence and nature of agree-  
22 ments for sharing project benefits and liability  
23 between the taxpayer and any host government.

24 “(2) GREENHOUSE GAS INTENSITY.—The  
25 greenhouse gas intensity for any period is equal to

1 the volume of emissions divided by the economic out-  
2 put associated with a project as compared to a  
3 greenhouse gas intensity baseline established after  
4 the date of the enactment of this section. The com-  
5 parison to such baseline may be made by geographic  
6 regions, industry segments, or on a taxpayer basis.

7 “(3) ACCREDITATION PANEL.—The term ‘ac-  
8 creditation panel’ means a panel jointly certified by  
9 the Secretary and the Secretary of Commerce.

10 “(e) RECAPTURE OF CREDIT IN CERTAIN CASES.—

11 “(1) IN GENERAL.—If, at any time during the  
12 20-year period of a greenhouse gas intensity reduc-  
13 tion project, there is a recapture event with respect  
14 to such project, then the tax imposed by this chapter  
15 for the taxable year in which such event occurs shall  
16 be increased by the credit recapture amount.

17 “(2) CREDIT RECAPTURE AMOUNT.—For pur-  
18 poses of paragraph (1)—

19 “(A) IN GENERAL.—The credit recapture  
20 amount is an amount equal to the recapture  
21 percentage of all greenhouse gas intensity re-  
22 duction investment credits previously allowable  
23 to a taxpayer with respect to any investment in  
24 such project that is attributable to such tax-  
25 payer.

1           “(B) RECAPTURE PERCENTAGE.—The re-  
2           capture percentage shall be 100 percent if the  
3           recapture event occurs during the first 5 years  
4           of the project, 75 percent if the recapture event  
5           occurs during the second 5 years of the project,  
6           50 percent if the recapture event occurs during  
7           the third 5 years of the project, 25 percent if  
8           the recapture event occurs during the fourth 5  
9           years of the project, and 0 percent if the recap-  
10          ture event occurs at any time after the 20th  
11          year of the project.

12          “(3) RECAPTURE EVENT.—For purposes of  
13          paragraph (1), there is a recapture event with re-  
14          spect to a greenhouse gas intensity reduction project  
15          if—

16                 “(A) the taxpayer violates a term or condi-  
17                 tion of the approval of the project by the ac-  
18                 creditation panel at any time,

19                 “(B) the taxpayer adopts a practice which  
20                 the accreditation panel has specified in its ap-  
21                 proval of the project as a practice which would  
22                 tend to defeat the purposes of the program, or

23                 “(C) the taxpayer disposes of any owner-  
24                 ship interest arising out of its investment that  
25                 the accreditation panel has determined is attrib-

1           utable to the project, unless the accreditation  
2           panel determines that such disposition will not  
3           have any adverse effect on the greenhouse gas  
4           intensity reduction project.

5           If an event which otherwise would be a recapture  
6           event is outside the control of the taxpayer, as deter-  
7           mined by the accreditation panel, such event shall  
8           not be treated as a recapture event with respect to  
9           such taxpayer.

10           “(4) SPECIAL RULES.—

11                   “(A) TAX BENEFIT RULE.—The tax for  
12                   the taxable year shall be increased under para-  
13                   graph (1) only with respect to credits allowed  
14                   by reason of this section which were used to re-  
15                   duce tax liability. In the case of credits not so  
16                   used to reduce tax liability, the carryforwards  
17                   and carrybacks under section 39 shall be appro-  
18                   priately adjusted.

19                   “(B) NO CREDITS AGAINST TAX.—Any in-  
20                   crease in tax under this subsection shall not be  
21                   treated as a tax imposed by this chapter for  
22                   purposes of determining the amount of any  
23                   credit under this chapter or for purposes of sec-  
24                   tion 55.

25           “(f) DISALLOWANCE OF DOUBLE BENEFIT.—

1           “(1) BASIS REDUCTION.—The basis of any in-  
2           vestment in a greenhouse gas intensity reduction  
3           project shall be reduced by the amount of any credit  
4           determined under this section with respect to such  
5           investment.

6           “(2) CHARITABLE DEDUCTION DISALLOWED.—  
7           No deduction shall be allowed to a taxpayer under  
8           section 170 with respect to any contribution which  
9           the accreditation panel certifies to the Secretary con-  
10          stitutes an investment in a greenhouse gas intensity  
11          reduction project that is attributable to such tax-  
12          payer.

13          “(g) CERTIFICATION TO SECRETARY.—The accredi-  
14          tation panel shall certify to the Secretary before January  
15          31 of each year with respect to each taxpayer which has  
16          made an investment in a greenhouse gas intensity reduc-  
17          tion project—

18                 “(1) the amount of the greenhouse gas intensity  
19                 reduction investment credit allowable to such tax-  
20                 payer for the preceding calendar year,

21                 “(2) whether a recapture event occurred with  
22                 respect to such taxpayer during the preceding cal-  
23                 endar year, and

1           “(3) the credit recapture amount, if any, with  
2           respect to such taxpayer for the preceding calendar  
3           year.

4           “(h) REGULATIONS.—The Secretary shall prescribe  
5           such regulations as may be appropriate to carry out this  
6           section, including regulations—

7           “(1) which limit the credit for investments  
8           which are directly or indirectly subsidized by other  
9           Federal benefits,

10           “(2) which prevent the abuse of the provisions  
11           of this section through the use of related parties,  
12           and

13           “(3) which impose appropriate reporting re-  
14           quirements.”.

15           (b) CREDIT MADE PART OF GENERAL BUSINESS  
16 CREDIT.—Subsection (b) of section 38 is amended by  
17 striking “plus” at the end of paragraph (18), by striking  
18 the period at the end of paragraph (19) and inserting “,  
19 plus”, and by adding at the end the following new para-  
20 graph:

21           “(20) the greenhouse gas intensity reduction in-  
22           vestment credit determined under section 45J(a).”.

23           (c) DEDUCTION FOR UNUSED CREDIT.—Subsection  
24 (c) of section 196 is amended by striking “and” at the  
25 end of paragraph (11), by striking the period at the end

1 of paragraph (12) and inserting “, and”, and by adding  
 2 at the end the following new paragraph:

3 “(13) the greenhouse gas intensity reduction in-  
 4 vestment credit determined under section 45J(a).”.

5 (d) CLERICAL AMENDMENT.—The table of sections  
 6 for subpart D of part IV of subchapter A of chapter 1  
 7 is amended by adding at the end the following new item:  
 “Sec. 45J. Greenhouse gas intensity reduction investment credit.”.

8 (e) EFFECTIVE DATE.—The amendments made by  
 9 this section shall apply to investments made after Decem-  
 10 ber 31, 2005.

11 **TITLE II—ENERGY EFFICIENCY**  
 12 **PROVISIONS**  
 13 **Subtitle A—Renewable Energy**

14 **SEC. 201. SENSE OF THE SENATE REGARDING EXTENSION**  
 15 **OF RENEWABLE ENERGY CREDIT.**

16 It is the sense of the Senate that the income tax cred-  
 17 it for electricity produced from certain renewable re-  
 18 sources under section 45 of the Internal Revenue Code  
 19 of 1986 should be extended through 2010.

20 **Subtitle B—Nuclear Power**

21 **SEC. 211. CREDIT FOR PRODUCTION FROM ADVANCED NU-**  
 22 **CLEAR POWER FACILITIES.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-  
 24 chapter A of chapter 1 (relating to business related cred-

1 its), as amended by this Act, is amended by adding at  
2 the end the following new section:

3 **“SEC. 45K. CREDIT FOR PRODUCTION FROM ADVANCED NU-**  
4 **CLEAR POWER FACILITIES.**

5 “(a) GENERAL RULE.—For purposes of section 38,  
6 the advanced nuclear power facility production credit of  
7 any taxpayer for any taxable year is equal to the product  
8 of—

9 “(1) 0.6 cent, multiplied by

10 “(2) the kilowatt hours of electricity—

11 “(A) produced by the taxpayer at an ad-  
12 vanced nuclear power facility during the 10-  
13 year period beginning on the date the facility  
14 was originally placed in service, and

15 “(B) sold by the taxpayer to an unrelated  
16 person during the taxable year.

17 “(b) NATIONAL LIMITATION.—

18 “(1) IN GENERAL.—The amount of credit  
19 which would (but for this subsection and subsection  
20 (c)) be allowed with respect to any facility for any  
21 taxable year shall not exceed the amount which  
22 bears the same ratio to such amount of credit as—

23 “(A) the national megawatt capacity limi-  
24 tation allocated to the facility, bears to

1           “(B) the total megawatt nameplate capac-  
2           ity of such facility.

3           “(2) AMOUNT OF NATIONAL LIMITATION.—The  
4           national megawatt capacity limitation shall be 8,000  
5           megawatts.

6           “(3) ALLOCATION OF LIMITATION.—The Sec-  
7           retary shall allocate the national megawatt capacity  
8           limitation in such manner as the Secretary may pre-  
9           scribe.

10          “(4) REGULATIONS.—Not later than 6 months  
11          after the date of the enactment of this section, the  
12          Secretary shall prescribe such regulations as may be  
13          necessary or appropriate to carry out the purposes  
14          of this subsection. Such regulations shall provide a  
15          certification process under which the Secretary, after  
16          consultation with the Secretary of Energy, shall ap-  
17          prove and allocate the national megawatt capacity  
18          limitation.

19          “(c) OTHER LIMITATIONS.—

20          “(1) ANNUAL LIMITATION.—The amount of the  
21          credit allowable under subsection (a) (after the ap-  
22          plication of subsection (b)) for any taxable year with  
23          respect to any facility shall not exceed an amount  
24          which bears the same ratio to \$125,000,000 as—

1           “(A) the national megawatt capacity limi-  
2           tation allocated under subsection (b) to the fa-  
3           cility, bears to

4           “(B) 1000.

5           “(2) OTHER LIMITATIONS.—Rules similar to  
6           the rules of section 45(b) shall apply for purposes of  
7           this section, except that paragraph (2) thereof shall  
8           not apply to the 0.6 cent under subsection (a)(1).

9           “(d) ADVANCED NUCLEAR POWER FACILITY.—For  
10          purposes of this section, the term ‘advanced nuclear power  
11          facility’ means any advanced nuclear facility—

12           “(1) which is owned by the taxpayer and which  
13           uses nuclear energy to produce electricity, and

14           “(2) which is originally placed in service after  
15           the date of the enactment of this paragraph and be-  
16           fore January 1, 2010.

17           “(e) OTHER RULES TO APPLY.—Rules similar to the  
18           rules of paragraphs (1), (2), (3), (4), and (5) of section  
19           45(e) shall apply for purposes of this section.”

20          (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
21          tion 38(b), as amended by this Act, is amended by striking  
22          “plus” at the end of paragraph (19), by striking the period  
23          at the end of paragraph (20) and inserting “, plus”, and  
24          by adding at the end the following new paragraph:

1           “(21) the advanced nuclear power facility pro-  
2           duction credit determined under section 45K(a).”.

3           (c) CLERICAL AMENDMENT.—The table of sections  
4 for subpart D of part IV of subchapter A of chapter 1,  
5 as amended by this Act, is amended by adding at the end  
6 the following new item:

“Sec. 45K. Credit for production from advanced nuclear power facilities.”.

7           (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to production in taxable years end-  
9 ing after the date of the enactment of this Act.

10 **SEC. 212. INVESTMENT TAX CREDIT FOR INVESTMENTS IN**  
11 **NUCLEAR POWER FACILITIES.**

12           (a) NEW CREDIT FOR NUCLEAR POWER FACILI-  
13 TIES.—Section 46 is amended by—

14           (1) striking “and” at the end of paragraph (1),

15           (2) striking the period at the end of paragraph

16           (2) and inserting “, and”, and

17           (3) inserting after paragraph (2) the following  
18 new paragraph:

19           “(3) the nuclear power facility construction  
20 credit.”.

21           (b) NUCLEAR POWER FACILITY CONSTRUCTION  
22 CREDIT.—Subpart E of part IV of subchapter A of chap-  
23 ter 1 is amended by inserting after section 48 the fol-  
24 lowing new section:

1 **“SEC. 48A. NUCLEAR POWER FACILITY CONSTRUCTION**  
2 **CREDIT.**

3 “(a) IN GENERAL.—For purposes of section 46, the  
4 nuclear power facility construction credit for any taxable  
5 year is 10 percent of so much of the qualified nuclear  
6 power facility expenditures paid or incurred by the tax-  
7 payer with respect to a qualified nuclear power facility.

8 “(b) WHEN EXPENDITURES TAKEN INTO AC-  
9 COUNT.—

10 “(1) IN GENERAL.—Qualified nuclear power fa-  
11 cility expenditures shall be taken into account for  
12 the taxable year in which the qualified nuclear power  
13 facility is placed in service.

14 “(2) COORDINATION WITH SUBSECTION (c).—  
15 The amount which would (but for this paragraph) be  
16 taken into account under paragraph (1) with respect  
17 to any qualified nuclear power facility shall be re-  
18 duced (but not below zero) by any amount of quali-  
19 fied nuclear power facility expenditures taken into  
20 account under subsection (c) by the taxpayer or a  
21 predecessor of the taxpayer (or, in the case of a sale  
22 and leaseback described in section 50(a)(2)(C), by  
23 the lessee), to the extent any amount so taken into  
24 account has not been required to be recaptured  
25 under section 50(a).

26 “(c) PROGRESS EXPENDITURES.—

1           “(1) IN GENERAL.—A taxpayer may elect to  
2 take into account qualified nuclear power facility ex-  
3 penditures.

4           “(A) SELF-CONSTRUCTED PROPERTY.—In  
5 the case of a qualified nuclear power facility  
6 which is a self-constructed facility, in the tax-  
7 able year for which such expenditures are prop-  
8 erly chargeable to capital account with respect  
9 to such facility.

10           “(B) ACQUIRED FACILITY.—In the case of  
11 a qualified nuclear facility which is not self-con-  
12 structed property, in the taxable year in which  
13 such expenditures are paid.

14           “(2) SPECIAL RULES FOR APPLYING PARA-  
15 GRAPH (1).—For purposes of paragraph (1)—

16           “(A) COMPONENT PARTS, ETC.—Property  
17 which is not self-constructed property and  
18 which is to be a component part of, or is other-  
19 wise to be included in, any facility to which this  
20 subsection applies shall be taken into account in  
21 accordance with paragraph (1)(B).

22           “(B) CERTAIN BORROWING DIS-  
23 REGARDED.—Any amount borrowed directly or  
24 indirectly by the taxpayer on a nonrecourse  
25 basis from the person constructing the facility

1 for the taxpayer shall not be treated as an  
2 amount expended for such facility.

3 “(C) LIMITATION FOR FACILITIES OR COM-  
4 PONENTS WHICH ARE NOT SELF-CON-  
5 STRUCTED.—

6 “(i) IN GENERAL.—In the case of a  
7 facility or a component of a facility which  
8 is not self-constructed, the amount taken  
9 into account under paragraph (1)(B) for  
10 any taxable year shall not exceed the  
11 amount which represents the portion of the  
12 overall cost to the taxpayer of the facility  
13 or component of a facility which is prop-  
14 erly attributable to the portion of the facil-  
15 ity or component which is completed dur-  
16 ing such taxable year.

17 “(ii) CARRY-OVER OF CERTAIN  
18 AMOUNTS.—In the case of a facility or  
19 component of a facility which is not self-  
20 constructed, if for the taxable year—

21 “(I) the amount which (but for  
22 clause (i)) would have been taken into  
23 account under paragraph (1)(B) ex-  
24 ceeds the limitation of clause (i), then  
25 the amount of such excess shall be

1 taken into account under paragraph  
2 (1)(B) for the succeeding taxable  
3 year, or

4 “(II) the limitation of clause (i)  
5 exceeds the amount taken into ac-  
6 count under paragraph (1)(B), then  
7 the amount of such excess shall in-  
8 crease the limitation of clause (i) for  
9 the succeeding taxable year.

10 “(D) DETERMINATION OF PERCENTAGE OF  
11 COMPLETION.—The determination under sub-  
12 paragraph (C)(i) of the portion of the overall  
13 cost to the taxpayer of the construction which  
14 is properly attributable to construction com-  
15 pleted during any taxable year shall be made on  
16 the basis of engineering or architectural esti-  
17 mates or on the basis of cost accounting  
18 records. Unless the taxpayer establishes other-  
19 wise by clear and convincing evidence, the con-  
20 struction shall be deemed to be completed not  
21 more rapidly than ratably over the normal con-  
22 struction period.

23 “(E) NO PROGRESS EXPENDITURES FOR  
24 CERTAIN PRIOR PERIODS.—No qualified nuclear  
25 facility expenditures shall be taken into account

1 under this subsection for any period before the  
2 first day of the first taxable year to which an  
3 election under this subsection applies.

4 “(F) NO PROGRESS EXPENDITURES FOR  
5 PROPERTY FOR YEAR IT IS PLACED IN SERVICE,  
6 ETC.—In the case of any qualified nuclear facil-  
7 ity, no qualified nuclear facility expenditures  
8 shall be taken into account under this sub-  
9 section for the earlier of—

10 “(i) the taxable year in which the fa-  
11 cility is placed in service, or

12 “(ii) the first taxable year for which  
13 recapture is required under section  
14 50(a)(2) with respect to such facility, or  
15 for any taxable year thereafter.

16 “(3) SELF-CONSTRUCTED.—For purposes of  
17 this subsection—

18 “(A) the term ‘self-constructed facility’  
19 means any facility if it is reasonable to believe  
20 that more than half of the qualified nuclear fa-  
21 cility expenditures for such facility will be made  
22 directly by the taxpayer, and

23 “(B) a component of a facility shall be  
24 treated as not self-constructed if the cost of the  
25 component is at least 5 percent of the expected

1 cost of the facility and the component is ac-  
2 quired by the taxpayer.

3 “(4) ELECTION.—An election shall be made  
4 under this section for a qualified nuclear power facil-  
5 ity by claiming the nuclear power facility construc-  
6 tion credit for expenditures described in paragraph  
7 (1) on a tax return filed by the due date for such  
8 return (taking into account extensions). Such an  
9 election shall apply to the taxable year for which  
10 made and all subsequent taxable years. Such an  
11 election, once made, may be revoked only with the  
12 consent of the Secretary.

13 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
14 poses of this section—

15 “(1) QUALIFIED NUCLEAR POWER FACILITY.—  
16 The term ‘qualified nuclear power facility’ means a  
17 nuclear power facility, as defined in section  
18 168(e)(8), the construction of which was approved  
19 by the Nuclear Regulatory Commission on or before  
20 December 31, 2014, and begun on or before Decem-  
21 ber 31, 2020.

22 “(2) QUALIFIED NUCLEAR POWER FACILITY  
23 EXPENDITURES.—

24 “(A) IN GENERAL.—The term ‘qualified  
25 nuclear power facility expenditures’ means any

1 amount properly chargeable to capital ac-  
2 count—

3 “(i) with respect to a qualified nuclear  
4 power facility,

5 “(ii) for which depreciation is allow-  
6 able under section 168, and

7 “(iii) which are incurred before the  
8 qualified nuclear power facility is placed in  
9 service or in connection with the placement  
10 of such facility in service.

11 “(B) LIMITATION PER FACILITY.—The  
12 amount of qualified nuclear power facility ex-  
13 penditures which may be taken into account  
14 under subsection (a) with respect to any quali-  
15 fied nuclear power facility shall not exceed  
16 \$10,000,000.

17 “(C) PRE-EFFECTIVE DATE EXPENDI-  
18 TURES.—Qualified nuclear power facility ex-  
19 penditures do not include any expenditures in-  
20 curred by the taxpayer before January 1, 2008,  
21 unless such expenditures constitute less than 20  
22 percent of the total qualified nuclear power fa-  
23 cility expenditures (determined without regard  
24 to this subparagraph) for the qualified nuclear  
25 power facility.

1           “(3) DELAYS AND SUSPENSION OF CONSTRUC-  
2           TION.—

3           “(A) IN GENERAL.—For purposes of ap-  
4           plying this section and section 50, a nuclear  
5           power facility that is under construction shall  
6           cease to be treated as a facility that will be a  
7           qualified nuclear power facility as of the earlier  
8           of—

9                   “(i) the date on which the taxpayer  
10                  decides to terminate construction of the fa-  
11                  cility, or

12                   “(ii) the last day of any 24 month pe-  
13                  riod in which the taxpayer has failed to  
14                  incur qualified nuclear power facility ex-  
15                  penditures totaling at least 20 percent of  
16                  the expected total cost of the nuclear  
17                  power facility.

18           “(B) AUTHORITY TO WAIVE.—The Sec-  
19           retary may waive the application of clause (ii)  
20           of subparagraph (A) if the Secretary deter-  
21           mines that the taxpayer intended to continue  
22           the construction of the qualified nuclear power  
23           facility and the expenditures were not incurred  
24           for reasons outside the control of the taxpayer.

1           “(C) RESUMPTION OF CONSTRUCTION.—If  
 2           a nuclear power facility that is under construc-  
 3           tion ceases to be a qualified nuclear power facil-  
 4           ity by reason of paragraph (2) and work is sub-  
 5           sequently resumed on the construction of such  
 6           facility—

7                   “(i) the date work is subsequently re-  
 8                   sumed shall be treated as the date that  
 9                   construction began for purposes of para-  
 10                  graph (1), and

11                   “(ii) if the facility is a qualified nu-  
 12                   clear power facility, the qualified nuclear  
 13                   power facility expenditures shall be deter-  
 14                   mined without regard to any delay or tem-  
 15                   porary termination of construction of the  
 16                   facility.”.

17           (c) PROVISIONS RELATING TO CREDIT RECAP-  
 18           TURE.—

19                   (1) PROGRESS EXPENDITURE RECAPTURE  
 20                   RULES.—

21                   (A) BASIC RULES.—Subparagraph (A) of  
 22                   section 50(a)(2) is amended to read as follows:

23                   “(A) IN GENERAL.—If during any taxable  
 24                   year any building to which section 47(d) applied  
 25                   or any facility to which section 48A(e) applied

1 ceases (by reason of sale or other disposition,  
2 cancellation or abandonment of contract, or  
3 otherwise) to be, with respect to the taxpayer,  
4 property which, when placed in service, will be  
5 a qualified rehabilitated building or a qualified  
6 nuclear power facility, then the tax under this  
7 chapter for such taxable year shall be increased  
8 by an amount equal to the aggregate decrease  
9 in the credits allowed under section 38 for all  
10 prior taxable years which would have resulted  
11 solely from reducing to zero the credit deter-  
12 mined under this subpart with respect to such  
13 building or facility.”.

14 (B) AMENDMENT TO EXCESS CREDIT RE-  
15 CAPTURE RULE.—Subparagraph (B) of section  
16 50(a)(2) is amended—

17 (i) by inserting “or paragraph (2) of  
18 section 48A(b)” after “paragraph (2) of  
19 section 47(b)”,

20 (ii) by inserting “or section  
21 48A(b)(1)” after “section 47(b)(1)”, and

22 (iii) by inserting “or facility” after  
23 “building”.

1 (C) AMENDMENT OF SALE AND LEASE-  
 2 BACK RULE.—Subparagraph (C) of section  
 3 50(a)(2) is amended—

4 (i) by inserting “or section 48A(c)”  
 5 after “section 47(d)”, and

6 (ii) by inserting “or qualified nuclear  
 7 power facility expenditures” after “quali-  
 8 fied rehabilitation expenditures”.

9 (D) CONFORMING AMENDMENT.—Sub-  
 10 paragraph (D) of section 50(a)(2) is amended  
 11 by inserting “or section 48A(c)” after “section  
 12 47(d)”.

13 (d) NO BASIS ADJUSTMENT.—Section 50(c) is  
 14 amended by inserting at the end the following new para-  
 15 graph:

16 “(6) NUCLEAR POWER FACILITY CONSTRUC-  
 17 TION CREDIT.—Paragraphs (1) and (2) shall not  
 18 apply to the nuclear power facility construction cred-  
 19 it.”.

20 (e) TECHNICAL AMENDMENTS.—The table of sec-  
 21 tions for subpart E of part IV of subchapter A of chapter  
 22 1 is amended by inserting after the item for section 48  
 23 the following new item:

“Sec. 48A. Nuclear power facility construction credit.”.

24 (f) EFFECTIVE DATE.—The amendments made by  
 25 this section of this Act shall apply to expenditures in-

1 curred in taxable years beginning after December 31,  
2 2007.

3 **SEC. 213. TAX-EXEMPT FINANCING OF NUCLEAR POWER FA-**  
4 **CILITIES.**

5 (a) IN GENERAL.—Subsection (a) of section 142 is  
6 amended—

7 (1) by striking “or” at the end of paragraph  
8 (13),

9 (2) by striking the period at the end of para-  
10 graph (14) and inserting “, or”, and

11 (3) by inserting at the end the following new  
12 paragraph:

13 “(15) nuclear power facility.”.

14 (b) DEFINITION.—Section 142 is amended by insert-  
15 ing at the end the following new subsection:

16 “(m) NUCLEAR POWER FACILITY.—For purposes of  
17 subsection (a)(15), the term ‘nuclear power facility’ means  
18 a nuclear power facility (within the meaning of section  
19 168(e)(8)) and any nuclear fuel assemblies (within the  
20 meaning of section 168(e)(8)(B)) initially included in any  
21 such facility.”.

22 (c) EXEMPTION FROM VOLUME CAP.—Paragraph  
23 (3) of section 146(g) (exempting certain exempt facility  
24 bonds from the state volume caps) is amended—

1           (1) by striking “or (14)” and inserting “(14),  
2           or (15)”, and

3           (2) by striking “and qualified green building  
4           and sustainable design projects” and inserting  
5           “qualified green building and sustainable design  
6           projects and nuclear power facilities”.

7           (d) EXEMPTION FROM ALTERNATIVE DEPRECIATION.—Paragraph (5) of section 168(g) is amended by inserting at the end the following new subparagraph:

10                   “(D) NUCLEAR POWER FACILITY.—The  
11                   term ‘tax-exempt bond financed property’ does  
12                   not include any nuclear power facility that is fi-  
13                   nanced with bonds described in section  
14                   142(a)(15).”.

15           (e) EFFECTIVE DATE.—The amendments made by  
16 this section of this Act shall apply with respect to bonds  
17 issued on or after January 1, 2006, and before January  
18 1, 2011.

## 19       **TITLE III—RESEARCH CREDITS**

### 20       **SEC. 301. SENSE OF THE SENATE REGARDING PERMANENT** 21                   **EXTENSION OF RESEARCH CREDIT.**

22           It is the sense of the Senate that the income tax cred-  
23 it for increasing research activities under section 41 of the  
24 Internal Revenue Code of 1986 should be permanently ex-  
25 tended, the rates of the alternative incremental credit

1 under such section should be increased, and an alternative  
2 simplified credit for qualified research expenses should be  
3 instituted.

## 4 **TITLE IV—SUNSET**

### 5 **SEC. 401. SUNSET.**

6 (a) **IN GENERAL.**—All provisions of, and amend-  
7 ments made by, this Act shall not apply to taxable years  
8 beginning after December 31, 2010.

9 (b) **APPLICATION OF CERTAIN LAWS.**—The Internal  
10 Revenue Code of 1986 shall be applied and administered  
11 to taxable years beginning after December 31, 2010, as  
12 if the provisions and amendments described in subsection  
13 (a) had never been enacted.

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