

111TH CONGRESS
1ST SESSION

H. R. 1337

To amend the Internal Revenue Code of 1986 to reduce carbon dioxide emissions in the United States domestic energy supply.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2009

Mr. LARSON of Connecticut (for himself, Mr. GEORGE MILLER of California, Mr. McDERMOTT, Mr. BLUMENAUER, Mr. HOLT, Mr. WU, and Mr. MORAN of Virginia) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to reduce carbon dioxide emissions in the United States domestic energy supply.

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 “America’s Energy Se-
5 curity Trust Fund Act of 2009”.

1 **SEC. 2. TAX ON CARBON DIOXIDE CONTENT OF CERTAIN**
2 **SUBSTANCES.**

3 (a) IN GENERAL.—Chapter 38 of the Internal Rev-
4 enue Code of 1986 (relating to environmental taxes) is
5 amended by adding at the end thereof the following new
6 subchapter:

7 **“Subchapter E—Tax on Carbon Dioxide**
8 **Content of Certain Substances**

“Sec. 4691. Imposition of tax.

“Sec. 4692. Refunds or credits.

“Sec. 4693. Border adjustments.

“Sec. 4694. Definitions and special rules.

9 **“SEC. 4691. IMPOSITION OF TAX.**

10 “(a) IN GENERAL.—There is hereby imposed a tax
11 on any taxable carbon substance sold by the manufacturer,
12 producer, or importer thereof.

13 “(b) AMOUNT OF TAX.—

14 “(1) IN GENERAL.—The amount of tax imposed
15 by subsection (a) on any taxable carbon substance
16 shall be the applicable amount per ton of carbon di-
17 oxide content of such substance, as determined by
18 the Secretary in consultation with the Secretary of
19 Energy.

20 “(2) FRACTIONAL PART OF TON.—In the case
21 of a fraction of a ton, the tax imposed by subsection
22 (a) shall be the same fraction of the amount of such
23 tax imposed on a whole ton.

1 “(3) APPLICABLE AMOUNT.—For purposes of
2 paragraph (1)—

3 “(A) CALENDAR YEAR 2009.—The applica-
4 ble amount for calender year 2009 is \$15.

5 “(B) YEARS AFTER 2009.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clause (ii), for a calendar year
8 after 2009, the applicable amount is the
9 sum of—

10 “(I) the amount in effect under
11 this paragraph for the preceding cal-
12 endar year, plus

13 “(II) \$10.

14 “(ii) EXCEPT FOR CARBON EMISSIONS
15 TARGET NONATTAINMENT YEAR.—Effec-
16 tive for any carbon emissions target non-
17 attainment year with respect to which
18 there is in effect pursuant to subparagraph
19 (C) a carbon emissions target for the sec-
20 ond preceding calender year—

21 “(I) IN GENERAL.—If any cal-
22 endar year is a carbon emissions tar-
23 get nonattainment year, the applicable
24 amount for such year shall be deter-
25 mined under clause (i) by substituting

1 ‘\$15’ for ‘\$10’ in subclause (II) there-
2 of.

3 “(II) CARBON EMISSION TARGET
4 NONATTAINMENT YEAR.—For pur-
5 poses of subclause (I), a calendar year
6 is a carbon emissions target non-
7 attainment year if the total carbon
8 emissions in the United States for the
9 second preceding calendar year exceed
10 the targets established under subpara-
11 graph (C) for such second preceding
12 calendar year.

13 “(C) EMISSIONS TARGETS.—

14 “(i) IN GENERAL.—Not later than 30
15 days after the date of the enactment of
16 this section, the Administrator of the Envi-
17 ronmental Protection Agency shall submit
18 to the Secretary and the Congress emis-
19 sions targets for carbon dioxide. Such tar-
20 gets shall—

21 “(I) be designed to achieve a car-
22 bon emissions level in the United
23 States at the end of calendar year
24 2050 of 20 percent of the level of car-

1 bon emissions in the United States in
2 calendar year 2005, and

3 “(II) shall take effect beginning
4 with the first calendar year beginning
5 after 5 years after the date of enact-
6 ment of this section.

7 “(ii) EMISSIONS REPORTING.—Not
8 later than January 31 of any calendar
9 year, the Administrator of the Environ-
10 mental Protection Agency shall submit a
11 report to the Secretary and Congress of
12 the total carbon emissions for the pre-
13 ceding calendar year.

14 “(c) SUBSTANCE TAXED ONLY ONCE.—No tax shall
15 be imposed by subsection (a) with respect to a taxable car-
16 bon substance if the person who would be liable for such
17 tax establishes that a prior tax imposed by such section
18 has been imposed with respect to such product.

19 **“SEC. 4692. REFUNDS OR CREDITS.**

20 “(a) SEQUESTERED CARBON.—Under regulations
21 prescribed by the Secretary, if a person uses a taxable car-
22 bon substance as a feedstock so that the carbon associated
23 with such substance will not be emitted, then an amount
24 equal to the amount of tax in effect under section 4691(b)
25 with respect to such substance for the calendar year in

1 which such use begins shall be allowed as a credit or re-
2 fund (without interest) to such person in the same manner
3 as if it were an overpayment of tax imposed by section
4 4691.

5 “(b) OFFSET PROJECTS.—

6 “(1) IN GENERAL.—Not later than 1 year after
7 the date of the enactment of this Act, the Secretary,
8 in consultation with the Secretary of Energy, shall
9 conduct a study and submit a report to the Congress
10 of qualified offset projects.

11 “(2) QUALIFIED OFFSET PROJECT.—For pur-
12 poses of paragraph (1), the term ‘qualified offset
13 project’ means a project carried out in the United
14 States that—

15 “(A) reduces greenhouse gas emissions,

16 “(B) sequesters a greenhouse gas, or

17 “(C) destroys hydrofluorocarbons.

18 “(3) EXCEPTION.—Such term does not include
19 a project that involves enhanced oil recovery.

20 “(c) PREVIOUSLY TAXED CARBON SUBSTANCES
21 USED TO MAKE ANOTHER TAXABLE CARBON SUB-
22 STANCE.—Under regulations prescribed by the Secretary,
23 if—

24 “(1) a tax under section 4691 was paid with re-
25 spect to any taxable carbon substance, and

1 “(2) such substance was used by any person in
2 the manufacture or production of any other sub-
3 stance which is a taxable carbon substance,
4 then an amount equal to the tax so paid shall be allowed
5 as a credit or refund (without interest) to such person in
6 the same manner as if it were an overpayment of tax im-
7 posed by subsection (a). In any case to which this para-
8 graph applies, the amount of any such credit or refund
9 shall not exceed the amount of tax imposed by subsection
10 (a) on the other taxable fuel manufactured or produced
11 (or which would have been imposed by such subsection on
12 such other fuel but for subsection (c)).

13 “(d) EXEMPTION FOR EXPORTS.—

14 “(1) TAX-FREE SALES.—

15 “(A) IN GENERAL.—No tax shall be im-
16 posed under subsection (a) on the sale by the
17 manufacturer or producer of any taxable carbon
18 substance for export or for resale by the pur-
19 chaser to a second purchaser for export.

20 “(B) PROOF OF EXPORT REQUIRED.—

21 Rules similar to the rules of section 4221(b)
22 shall apply for purposes of subparagraph (A).

23 “(2) CREDIT OR REFUND WHERE TAX PAID.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), if—

1 “(i) tax under subsection (a) was paid
2 with respect to any taxable carbon sub-
3 stance, and

4 “(ii)(I) such substance was exported
5 by any person, or

6 “(II) such substance was used as a
7 material in the manufacture or production
8 of a taxable carbon substance which was
9 exported by any person and which, at the
10 time of export, was a taxable carbon sub-
11 stance,

12 credit or refund (without interest) of such tax
13 shall be allowed or made to the person who paid
14 such tax.

15 “(B) CONDITION TO ALLOWANCE.—No
16 credit or refund shall be allowed or made under
17 subparagraph (A) unless the person who paid
18 the tax establishes that he—

19 “(i) has repaid or agreed to repay the
20 amount of the tax to the person who ex-
21 ported the taxable carbon substance, or

22 “(ii) has obtained the written consent
23 of such exporter to the allowance of the
24 credit or the making of the refund.

1 “(C) REFUNDS DIRECTLY TO EX-
 2 PORTER.—The Secretary shall provide, in regu-
 3 lations, the circumstances under which a credit
 4 or refund (without interest) of the tax under
 5 subsection (a) shall be allowed or made to the
 6 person who exported the taxable carbon sub-
 7 stance, where—

8 “(i) the person who paid the tax
 9 waives his claim to the amount of such
 10 credit or refund, and

11 “(ii) the person exporting the taxable
 12 carbon substance provides such informa-
 13 tion as the Secretary may require in such
 14 regulations.

15 “(3) REGULATIONS.—The Secretary shall pre-
 16 scribe such regulations as may be necessary to carry
 17 out the purposes of this subsection.

18 **“SEC. 4693. BORDER ADJUSTMENTS.**

19 “(a) IMPORTS.—The Secretary shall impose a carbon
 20 equivalency fee on imports of carbon-intensive goods that
 21 shall be equivalent to the cost that domestic producers of
 22 comparable carbon-intensive goods incur as a result of—

23 “(1) taxes paid by manufacturers, producers,
 24 and importers of taxable carbon substances under
 25 this Act, and

1 “(2) carbon equivalency fees paid by importers
2 of carbon intensive goods used in the production of
3 the comparable carbon intensive goods in question.

4 “(b) EXPORTS.—Notwithstanding the limitations of
5 section 4692(d), the Secretary shall allow as a credit or
6 refund (without interest) to the exporter of a carbon-inten-
7 sive good produced in the United States in the same man-
8 ner as if it were an overpayment of tax imposed by section
9 4691 an amount equivalent to the cost that domestic pro-
10 ducers of such carbon intensive goods incur as a result
11 of—

12 “(1) taxes paid by manufacturers, producers,
13 and importers of taxable carbon substances under
14 this Act, and

15 “(2) carbon equivalency fees paid by importers
16 of carbon intensive goods used in the production of
17 the comparable carbon intensive goods in question.

18 “(c) EXPIRATION.—This section shall cease to have
19 effect at such time as and to the extent that—

20 “(1)(A) an international agreement requiring
21 countries that emit greenhouse gases and produce
22 carbon intensive goods for international markets to
23 adopt equivalent measures comes into effect, or

24 “(B) the country of export has implemented
25 equivalent measures, and

1 “(2) the actions provided for by subsections (a)
2 and (b) are no longer appropriate.

3 **“SEC. 4694. DEFINITIONS AND SPECIAL RULES.**

4 “(a) DEFINITIONS.—For purposes of this sub-
5 chapter—

6 “(1) TAXABLE CARBON SUBSTANCE.—The term
7 ‘taxable carbon substance’ means—

8 “(A) coal (including lignite and peat),

9 “(B) petroleum and any petroleum product
10 (as defined in section 4612(a)(3)), and

11 “(C) natural gas,

12 which is extracted, manufactured, or produced in the
13 United States or entered into the United States for
14 consumption, use, or warehousing.

15 “(2) UNITED STATES.—The term ‘United
16 States’ has the meaning given such term by section
17 4612(a)(4).

18 “(3) IMPORTER.—The term ‘importer’ means
19 the person entering the taxable carbon substance for
20 consumption, use, or warehousing.

21 “(4) TON.—The term ‘ton’ means 2,000
22 pounds. In the case of any taxable carbon substance
23 which is a gas, the term ‘ton’ means the amount of
24 such gas in cubic feet which is the equivalent of
25 2,000 pounds on a molecular weight basis.

1 “(5) CARBON-INTENSIVE GOOD.—The term
2 ‘carbon-intensive good’ means a good that (as identi-
3 fied by the Secretary by rule)—

4 “(A) is a primary product, or

5 “(B) is a manufactured item in which one
6 or more primary products are inputs and the
7 cost of production of which in the United States
8 is significantly increased by this subchapter.

9 “(6) PRIMARY PRODUCT.—The term ‘primary
10 product’ means—

11 “(A) iron, steel, steel mill products (includ-
12 ing pipe and tube), aluminum, cement, glass
13 (including flat, container, and specialty glass
14 and fiberglass), pulp, paper, chemicals, or in-
15 dustrial ceramics, and

16 “(B) any other manufactured product that
17 the Secretary determines—

18 “(i) is sold for purposes of further
19 manufacture, and

20 “(ii) generates, in the course of the
21 manufacture of the product, direct and in-
22 direct greenhouse gas emissions that are
23 comparable (on an emissions-per-dollar of
24 output basis) to emissions generated in the

1 manufacture or production of primary
2 products identified in subparagraph (A).

3 “(7) EQUIVALENT MEASURE.—The term ‘equiv-
4 alent measure’ means a tax or other regulatory re-
5 quirement that imposes a cost on manufacturers of
6 carbon intensive goods located outside the United
7 States approximately equal to the cost imposed by
8 section 4691 on manufacturers of comparable car-
9 bon intensive goods located in the United States.

10 “(b) USE TREATED AS SALE.—If any person manu-
11 factures, produces, or imports any taxable carbon sub-
12 stance and uses such substance, then such person shall
13 be liable for tax under section 4691 in the same manner
14 as if such substance were sold by such person.

15 “(c) SPECIAL RULES FOR INVENTORY EX-
16 CHANGES.—

17 “(1) IN GENERAL.—Except as provided in this
18 paragraph, in any case in which a manufacturer,
19 producer, or importer of a taxable carbon substance
20 exchanges such substance as part of an inventory ex-
21 change with another person—

22 “(A) such exchange shall not be treated as
23 a sale, and

1 “(B) such other person shall, for purposes
2 of section 4691, be treated as the manufac-
3 turer, producer, or importer of such substance.

4 “(2) REGISTRATION REQUIREMENT.—Para-
5 graph (1) shall not apply to any inventory exchange
6 unless—

7 “(A) both parties are registered with the
8 Secretary as manufacturers, producers, or im-
9 porters of taxable carbon substances, and

10 “(B) the person receiving the taxable car-
11 bon substance has, at such time as the Sec-
12 retary may prescribe, notified the manufac-
13 turer, producer, or importer of such person’s
14 registration number and the internal revenue
15 district in which such person is registered.

16 “(3) INVENTORY EXCHANGE.—For purposes of
17 this subsection, the term ‘inventory exchange’ means
18 any exchange in which 2 persons exchange property
19 which is, in the hands of each person, property de-
20 scribed in section 1221(a)(1).”.

21 (b) ESTABLISHMENT OF AMERICA’S ENERGY SECU-
22 RITY TRUST FUND.—Subchapter A of chapter 98 of such
23 Code (relating to trust fund code) is amended by adding
24 at the end the following:

1 **“SEC. 9511. AMERICA’S ENERGY SECURITY TRUST FUND.**

2 “(a) CREATION OF TRUST FUND.—There is estab-
3 lished in the Treasury of the United States a trust fund
4 to be known as ‘America’s Energy Security Trust Fund’
5 (referred to in this section as the ‘Trust Fund’), consisting
6 of such amounts as may be appropriated or credited to
7 the Trust Fund as provided in this section or section
8 9602(b).

9 “(b) TRANSFERS TO TRUST FUND.—There is hereby
10 appropriated to the Trust Fund an amount equivalent to
11 the increase in revenues received in the Treasury as the
12 result of the tax imposed under section 4691.

13 “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—
14 Amounts in the Trust Fund equivalent to the taxes re-
15 ceived in the Treasury under section 4691 for a calendar
16 year shall be available without further appropriation, as
17 follows:

18 “(1) First, the lesser of $\frac{1}{6}$ of such amount or
19 \$10,000,000,000 shall be available for a tax credit
20 for research, development, or investment into clean
21 energy technology.

22 “(2) Second, the affected industry transition as-
23 sistance amount shall be available for transition as-
24 sistance to industries negatively affected by the
25 America’s Energy Security Trust Fund Act of 2009,

1 as determined by the Secretary of the Treasury in
2 consultation with the Secretary of Labor.

3 “(3) Third, the amount remaining after the ap-
4 plication of paragraphs (1) and (2) shall be available
5 for payroll tax relief under rebate paid under section
6 36B.

7 “(d) AFFECTED INDUSTRY TRANSITION ASSISTANCE
8 AMOUNT.—For purposes of subsection (c)(2), the affected
9 industry transition assistance amount is the amount deter-
10 mined as follows:

11 “(1) For calendar year 2009, $\frac{1}{12}$ of the amount
12 in the Trust Fund equivalent to the taxes received
13 in the Treasury under section 4691 for calendar
14 year 2009, determined after the application of sub-
15 section (c)(1).

16 “(2) For calendar year 2010, $\frac{9}{10}$ of the amount
17 made available under paragraph (1) for calendar
18 year 2009.

19 “(3) For calendar year 2011, $\frac{4}{5}$ of the amount
20 made available under paragraph (1) for calendar
21 year 2009.

22 “(4) For calendar year 2012, $\frac{7}{10}$ of the amount
23 made available under paragraph (1) for calendar
24 year 2009.

1 “(5) For calendar year 2013, $\frac{3}{5}$ of the amount
2 made available under paragraph (1) for calendar
3 year 2009.

4 “(6) For calendar year 2014, $\frac{1}{2}$ of the amount
5 made available under paragraph (1) for calendar
6 year 2009.

7 “(7) For calendar year 2015, $\frac{2}{5}$ of the amount
8 made available under paragraph (1) for calendar
9 year 2009.

10 “(8) For calendar year 2016, $\frac{3}{10}$ of the amount
11 made available under paragraph (1) for calendar
12 year 2009.

13 “(9) For calendar year 2017, $\frac{1}{5}$ of the amount
14 made available under paragraph (1) for calendar
15 year 2009.

16 “(10) For calendar year 2018, $\frac{1}{10}$ of the
17 amount made available under paragraph (1) for cal-
18 endar year 2009.

19 “(11) For calendar years after 2018, zero.”.

20 (c) CLERICAL AMENDMENTS.—

21 (1) The table of subchapters for chapter 38 of
22 such Code is amended by adding at the end thereof
23 the following new item:

“SUBCHAPTER E—TAX ON CARBON DIOXIDE CONTENT OF CERTAIN
SUBSTANCES”.

1 (2) The table of sections for subchapter A of
 2 chapter 98 of such Code is amended by adding at
 3 the end the following:

“Sec. 9511. America’s Energy Security Trust Fund.”.

4 (d) **EFFECTIVE DATE.**—The amendments made by
 5 this section shall take effect on the date of the enactment
 6 of this Act.

7 **SEC. 3. CARBON TAX REBATE OF PAYROLL TAX.**

8 (a) **IN GENERAL.**—Subpart C of part IV of sub-
 9 chapter A of chapter 1 of the Internal Revenue Code of
 10 1986 (relating to refundable credits) is amended by insert-
 11 ing after section 36A the following new section:

12 **“SEC. 36B. CARBON TAX REBATE OF PAYROLL TAX.**

13 “(a) **IN GENERAL.**—In the case of an individual,
 14 there shall be allowed as a credit against the tax imposed
 15 by this subtitle for the taxable year an amount equal to
 16 the carbon tax rebate.

17 “(b) **CARBON TAX REBATE.**—

18 “(1) **IN GENERAL.**—For purposes of this sec-
 19 tion, the term ‘carbon tax rebate’ means with re-
 20 spect to a taxable year the individual’s share of the
 21 amount determined by the Secretary on a per capita
 22 basis to be the amount available under section
 23 9511(c)(3) for the calendar year in which or with
 24 which the taxable year begins.

1 “(2) DETERMINATION BASED ON ESTIMATES.—

2 The determination under paragraph (1) shall be
3 made on the basis of estimates by the Secretary, and
4 proper adjustments shall be made in amounts avail-
5 able under section 9511(c)(3) for the succeeding tax-
6 able year to the extent prior estimates were in excess
7 of or less than the amounts actually available under
8 such section for the prior taxable year.

9 “(c) LIMITATION BASED ON PAYROLL TAXES PAID
10 AND SOCIAL SECURITY BENEFITS.—

11 “(1) IN GENERAL.—The amount allowed as a
12 credit under subsection (a) with respect to any indi-
13 vidual for a taxable year shall not exceed the greater
14 of—

15 “(A) the total amount of taxes paid with
16 respect to such individual for such taxable year
17 under section 1401 and chapters 21 and 22, de-
18 termined after taking into account any refund
19 under section 31(b) and 6413(c), or

20 “(B) 10 percent of the aggregate amount
21 of social security benefits (within the meaning
22 of section 86(d)) received by such individual for
23 the taxable year.

24 “(2) SPECIAL RULE FOR SOCIAL SECURITY
25 BENEFITS RECEIVED FOR LESS THAN 12 MONTHS.—

1 For purposes of paragraph (1)(B), if Social Security
 2 benefits (as so defined) were not received for each
 3 month in the taxable year, such benefits shall be
 4 annualized by multiplying the Social Security bene-
 5 fits received by 12 and dividing the result by the
 6 number of months in such taxable year for which
 7 such benefits were received.

8 “(d) DENIAL OF CREDIT TO DEPENDENTS.—No
 9 credit shall be allowed under subsection (a) to an indi-
 10 vidual for such individual’s taxable year if a deduction
 11 under section 151 with respect to such individual is al-
 12 lowed to another taxpayer for a taxable year beginning
 13 in the calendar year in which such individual’s taxable
 14 year begins.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Paragraph (2) of section 1324(b) of title
 17 31, United States Code, is amended by inserting
 18 “36B,” after “36A,”.

19 (2) The table of sections for subpart C of part
 20 IV of subchapter A of chapter 1 of the Internal Rev-
 21 enue Code of 1986 is amended by inserting after the
 22 item relating to section 36A the following new item:

“Sec. 36B. Carbon tax rebate of payroll tax.”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 December 31, 2008.

1 **SEC. 4. STUDY OF TAXATION OF NON-CARBON GREEN-**
2 **HOUSE GASES.**

3 (a) IN GENERAL.—The Secretary of the Treasury, in
4 consultation with the Secretary of Energy shall conduct
5 a study of the best methods to assess and collect tax on
6 non-carbon greenhouse gases similar to the tax imposed
7 by section 4691 of the Internal Revenue Code of 1986 (as
8 added by this Act).

9 (b) REPORT.—Not later than 6 months after the date
10 of the enactment of this Act, the Secretary of the Treasury
11 shall submit to the Congress the findings of the report
12 required under subsection (a) together with such legisla-
13 tive recommendations as the Secretary determine appro-
14 priate for the assessment and collection of such tax.

15 **SEC. 5. SENSE OF CONGRESS.**

16 It is the sense of Congress that the United States
17 should work proactively under the United Nations Frame-
18 work Convention on Climate Change and in other appro-
19 priate fora to establish binding agreements committing all
20 major greenhouse gas emitting nations and countries with
21 globally competitive producers of carbon intensive goods
22 to contribute equitably to the reduction of global green-
23 house gas emissions.

○